

In the House of Representatives, U. S.,

October 12, 1995.

Resolved, That the bill from the Senate (S. 652) entitled “An Act to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes”, do pass with the following

AMENDMENTS:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-***
2 ***TENTS.***

3 (a) *SHORT TITLE.*—*This Act may be cited as the*
4 *“Communications Act of 1995”.*

5 (b) *REFERENCES.*—*References in this Act to “the Act”*
6 *are references to the Communications Act of 1934.*

7 (c) *TABLE OF CONTENTS.*—

Sec. 1. Short title; references; table of contents.

*TITLE I—DEVELOPMENT OF COMPETITIVE TELECOMMUNICATIONS
MARKETS*

Sec. 101. Establishment of part II of title II.

"PART II—DEVELOPMENT OF COMPETITIVE MARKETS

- "Sec. 241. Interconnection.*
- "Sec. 242. Equal access and interconnection to the local loop for competing providers.*
- "Sec. 243. Removal of barriers to entry.*
- "Sec. 244. Statements of terms and conditions for access and interconnection.*
- "Sec. 245. Bell operating company entry into interLATA services.*
- "Sec. 246. Competitive safeguards.*
- "Sec. 247. Universal service.*
- "Sec. 248. Pricing flexibility and abolition of rate-of-return regulation.*
- "Sec. 249. Network functionality and accessibility.*
- "Sec. 250. Market entry barriers.*
- "Sec. 251. Illegal changes in subscriber carrier selections.*
- "Sec. 252. Study."*
- Sec. 102. Competition in manufacturing, information services, alarm services, and pay phone services.*

"PART III—SPECIAL AND TEMPORARY PROVISIONS

- "Sec. 271. Manufacturing by Bell operating companies.*
- "Sec. 272. Electronic publishing by Bell operating companies.*
- "Sec. 273. Alarm monitoring and telemessaging services by Bell operating companies.*
- "Sec. 274. Provision of payphone service."*
- Sec. 103. Forbearance from regulation.*
- "Sec. 230. Protection for private blocking and screening of offensive material; FCC regulation of computer services prohibited."*
- Sec. 104. Online family empowerment.*
- Sec. 105. Privacy of customer information.*
- "Sec. 222. Privacy of customer proprietary network information."*
- Sec. 106. Pole attachments.*
- Sec. 107. Preemption of franchising authority regulation of telecommunications services.*
- Sec. 108. Facilities siting; radio frequency emission standards.*
- Sec. 109. Mobile service access to long distance carriers.*
- Sec. 110. Freedom from toll fraud.*
- Sec. 111. Report on means of restricting access to unwanted material in interactive telecommunications systems.*
- Sec. 112. Telecommunications development fund.*
- "Sec. 10. Telecommunication development fund."*
- Sec. 113. Report on the use of advanced telecommunications services for medical purposes.*
- Sec. 114. Telecommuting public information program.*
- Sec. 115. Authorization of appropriations.*

TITLE II—CABLE COMMUNICATIONS COMPETITIVENESS

- Sec. 201. Cable service provided by telephone companies.*

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

- "Sec. 651. Definitions.*
- "Sec. 652. Separate video programming affiliate.*
- "Sec. 653. Establishment of video platform.*

"Sec. 654. Authority to prohibit cross-subsidization.

"Sec. 655. Prohibition on buy outs.

"Sec. 656. Applicability of parts I through IV.

"Sec. 657. Rural area exemption."

Sec. 202. Competition from cable systems.

Sec. 203. Competitive availability of navigation devices.

"Sec. 713. Competitive availability of navigation devices."

Sec. 204. Video programming accessibility.

Sec. 205. Technical amendments.

TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS

Sec. 301. Broadcaster spectrum flexibility.

"Sec. 336. Broadcast spectrum flexibility."

Sec. 302. Broadcast ownership.

"Sec. 337. Broadcast ownership."

Sec. 303. Foreign investment and ownership.

Sec. 304. Family viewing empowerment.

Sec. 305. Parental choice in television programming.

Sec. 306. Term of licenses.

Sec. 307. Broadcast license renewal procedures.

Sec. 308. Exclusive Federal jurisdiction over direct broadcast satellite service.

Sec. 309. Automated ship distress and safety systems.

Sec. 310. Restrictions on over-the-air reception devices.

Sec. 311. DBS signal security.

Sec. 312. Delegation of equipment testing and certification to private laboratories.

TITLE IV—EFFECT ON OTHER LAWS

Sec. 401. Relationship to other laws.

Sec. 402. Preemption of local taxation with respect to DBS services.

Sec. 403. Protection of minors and clarification of current laws regarding communication of obscene and indecent materials through the use of computers.

TITLE V—DEFINITIONS

Sec. 501. Definitions.

TITLE VI—SMALL BUSINESS COMPLAINT PROCEDURE

Sec. 601. Complaint procedure.

1 **TITLE I—DEVELOPMENT OF**
 2 **COMPETITIVE TELECOMMUN-**
 3 **ICATIONS MARKETS**

4 **SEC. 101. ESTABLISHMENT OF PART II OF TITLE II.**

5 (a) *AMENDMENT.*—Title II of the Act is amended by
 6 inserting after section 229 (47 U.S.C. 229) the following
 7 new part:

8 **“PART II—DEVELOPMENT OF COMPETITIVE**
 9 **MARKETS**

10 **“SEC. 241. INTERCONNECTION.**

11 “The duty of a common carrier under section 201(a)
 12 includes the duty to interconnect with the facilities and
 13 equipment of other providers of telecommunications services
 14 and information services.

15 **“SEC. 242. EQUAL ACCESS AND INTERCONNECTION TO THE**
 16 **LOCAL LOOP FOR COMPETING PROVIDERS.**

17 “(a) *OPENNESS AND ACCESSIBILITY OBLIGATIONS.*—
 18 The duty under section 201(a) of a local exchange carrier
 19 includes the following duties:

20 “(1) *INTERCONNECTION.*—The duty to provide,
 21 in accordance with subsection (b), equal access to and
 22 interconnection with the facilities of the carrier’s net-
 23 works to any other carrier or person offering (or seek-
 24 ing to offer) telecommunications services or informa-
 25 tion services reasonably requesting such equal access

1 *and interconnection, so that such networks are fully*
 2 *interoperable with such telecommunications services*
 3 *and information services. For purposes of this para-*
 4 *graph, a request is not reasonable unless it contains*
 5 *a proposed plan, including a reasonable schedule, for*
 6 *the implementation of the requested access or inter-*
 7 *connection.*

8 “(2) *UNBUNDLING OF NETWORK ELEMENTS.—*
 9 *The duty to offer unbundled services, elements, fea-*
 10 *tures, functions, and capabilities whenever technically*
 11 *feasible, at just, reasonable, and nondiscriminatory*
 12 *prices and in accordance with subsection (b)(4).*

13 “(3) *RESALE.—The duty—*

14 (A) *to offer services, elements, features, func-*
 15 *tions, and capabilities for resale at wholesale*
 16 *rates, and*

17 (B) *not to prohibit, and not to impose un-*
 18 *reasonable or discriminatory conditions or limi-*
 19 *tations on, the resale of such services, elements,*
 20 *features, functions, and capabilities, on a bun-*
 21 *dled or unbundled basis, except that a carrier*
 22 *may prohibit a reseller that obtains at wholesale*
 23 *rates a service, element, feature, function, or ca-*
 24 *pability that is available at retail only to a cat-*
 25 *egory of subscribers from offering such service,*

1 *element, feature, function, or capability to a dif-*
2 *ferent category of subscribers.*

3 *For the purposes of this paragraph, wholesale rates*
4 *shall be determined on the basis of retail rates for the*
5 *service, element, feature, function, or capability pro-*
6 *vided, excluding the portion thereof attributable to*
7 *any marketing, billing, collection, and other costs that*
8 *are avoided by the local exchange carrier.*

9 “(4) *NUMBER PORTABILITY.*—*The duty to pro-*
10 *vide, to the extent technically feasible, number port-*
11 *ability in accordance with requirements prescribed by*
12 *the Commission.*

13 “(5) *DIALING PARITY.*—*The duty to provide, in*
14 *accordance with subsection (c), dialing parity to com-*
15 *peting providers of telephone exchange service and*
16 *telephone toll service.*

17 “(6) *ACCESS TO RIGHTS-OF-WAY.*—*The duty to*
18 *afford access to the poles, ducts, conduits, and rights-*
19 *of-way of such carrier to competing providers of tele-*
20 *communications services in accordance with section*
21 *224(d).*

22 “(7) *NETWORK FUNCTIONALITY AND ACCESSIBIL-*
23 *ITY.*—*The duty not to install network features, func-*
24 *tions, or capabilities that do not comply with any*
25 *standards established pursuant to section 249.*

1 “(8) *GOOD FAITH NEGOTIATION.*—The duty to
 2 *negotiate in good faith, under the supervision of State*
 3 *commissions, the particular terms and conditions of*
 4 *agreements to fulfill the duties described in para-*
 5 *graphs (1) through (7). The other carrier or person*
 6 *requesting interconnection shall also be obligated to*
 7 *negotiate in good faith the particular terms and con-*
 8 *ditions of agreements to fulfill the duties described in*
 9 *paragraphs (1) through (7).*

10 “(b) *INTERCONNECTION, COMPENSATION, AND EQUAL*
 11 *ACCESS.*—

12 “(1) *INTERCONNECTION.*—A local exchange car-
 13 *rier shall provide access to and interconnection with*
 14 *the facilities of the carrier’s network at any tech-*
 15 *nically feasible point within the carrier’s network on*
 16 *just and reasonable terms and conditions, to any*
 17 *other carrier or person offering (or seeking to offer)*
 18 *telecommunications services or information services*
 19 *requesting such access.*

20 “(2) *INTERCARRIER COMPENSATION BETWEEN*
 21 *FACILITIES-BASED CARRIERS.*—

22 “(A) *IN GENERAL.*—For the purposes of
 23 *paragraph (1), the terms and conditions for*
 24 *interconnection of the network facilities of a*
 25 *competing provider of telephone exchange service*

1 *shall not be considered to be just and reasonable*
 2 *unless—*

3 “(i) *such terms and conditions provide*
 4 *for the mutual and reciprocal recovery by*
 5 *each carrier of costs associated with the ter-*
 6 *mination on such carrier’s network facili-*
 7 *ties of calls that originate on the network*
 8 *facilities of the other carrier;*

9 “(ii) *such terms and conditions deter-*
 10 *mine such costs on the basis of a reasonable*
 11 *approximation of the additional costs of ter-*
 12 *minating such calls; and*

13 “(iii) *the recovery of costs permitted by*
 14 *such terms and conditions are reasonable in*
 15 *relation to the prices for termination of*
 16 *calls that would prevail in a competitive*
 17 *market.*

18 “(B) *RULES OF CONSTRUCTION.—This*
 19 *paragraph shall not be construed—*

20 “(i) *to preclude arrangements that af-*
 21 *ford such mutual recovery of costs through*
 22 *the offsetting of reciprocal obligations, in-*
 23 *cluding arrangements that waive mutual re-*
 24 *covery (such as bill-and-keep arrangements);*
 25 *or*

1 “(ii) to authorize the Commission or
2 any State commission to engage in any rate
3 regulation proceeding to establish with par-
4 ticularity the additional costs of terminat-
5 ing calls, or to require carriers to maintain
6 records with respect to the additional costs
7 of terminating calls.

8 “(3) *EQUAL ACCESS*.—A local exchange carrier
9 shall afford, to any other carrier or person offering
10 (or seeking to offer) a telecommunications service or
11 an information service, reasonable and nondiscrim-
12 inatory access on an unbundled basis—

13 “(A) to databases, signaling systems, billing
14 and collection services, poles, ducts, conduits,
15 and rights-of-way owned or controlled by a local
16 exchange carrier, or other facilities, functions, or
17 information (including subscriber numbers) inte-
18 gral to the efficient transmission, routing, or
19 other provision of telephone exchange services or
20 exchange access;

21 “(B) that is equal in type and quality to
22 the access which the carrier affords to itself or to
23 any other person, and is available at non-
24 discriminatory prices; and

1 “(C) that is sufficient to ensure the full
2 interoperability of the equipment and facilities
3 of the carrier and of the person seeking such ac-
4 cess.

5 “(4) COMMISSION ACTION REQUIRED.—

6 “(A) IN GENERAL.—Within 6 months after
7 the date of enactment of this part, the Commis-
8 sion shall complete all actions necessary (includ-
9 ing any reconsideration) to establish regulations
10 to implement the requirements of this section.
11 The Commission shall establish such regulations
12 after consultation with the Joint Board estab-
13 lished pursuant to section 247.

14 “(B) ACCOMMODATION OF STATE ACCESS
15 REGULATIONS.—In prescribing and enforcing
16 regulations to implement the requirements of this
17 section, the Commission shall not preclude the
18 enforcement of any regulation, order, or policy of
19 a State commission that—

20 “(i) establishes access and interconnec-
21 tion obligations of local exchange carriers;

22 “(ii) is consistent with the require-
23 ments of this section; and

24 “(iii) does not substantially prevent
25 the Commission from fulfilling the require-

1 *ments of this section and the purposes of*
2 *this part.*

3 “(C) *COLLOCATION.*—Such regulations shall
4 *provide for actual collocation of equipment nec-*
5 *essary for interconnection for telecommuni-*
6 *cations services at the premises of a local ex-*
7 *change carrier, except that the regulations shall*
8 *provide for virtual collocation where the local ex-*
9 *change carrier demonstrates that actual colloca-*
10 *tion is not practical for technical reasons or be-*
11 *cause of space limitations.*

12 “(D) *USER PAYMENT OF COSTS.*—Such reg-
13 *ulations shall require that the costs that a car-*
14 *rier incurs in offering access, interconnection,*
15 *number portability, or unbundled services, ele-*
16 *ments, features, functions, and capabilities shall*
17 *be borne by the users of such access, interconnec-*
18 *tion, number portability, or services, elements,*
19 *features, functions, and capabilities.*

20 “(E) *IMPUTED CHARGES TO CARRIER.*—
21 *Such regulations shall require the carrier, to the*
22 *extent it provides a telecommunications service*
23 *or an information service that requires access or*
24 *interconnection to its network facilities, to im-*

1 *pute such access and interconnection charges to*
 2 *itself.*

3 *“(c) NUMBER PORTABILITY AND DIALING PARITY.—*

4 *“(1) AVAILABILITY.—A local exchange carrier*
 5 *shall ensure that—*

6 *“(A) number portability shall be available*
 7 *on request in accordance with subsection (a)(4);*
 8 *and*

9 *“(B) dialing parity shall be available upon*
 10 *request, except that, in the case of a Bell operat-*
 11 *ing company, such company shall ensure that*
 12 *dialing parity for intraLATA telephone toll serv-*
 13 *ice shall be available not later than the date such*
 14 *company is authorized to provide interLATA*
 15 *services.*

16 *“(2) NUMBER ADMINISTRATION.—The Commis-*
 17 *sion shall designate one or more impartial entities to*
 18 *administer telecommunications numbering and to*
 19 *make such numbers available on an equitable basis.*
 20 *The Commission shall have exclusive jurisdiction over*
 21 *those portions of the North American Numbering Plan*
 22 *that pertain to the United States. Nothing in this*
 23 *paragraph shall preclude the Commission from dele-*
 24 *gating to State commissions or other entities any por-*
 25 *tion of such jurisdiction.*

1 “(d) *JOINT MARKETING OF RESOLD ELEMENTS.*—

2 “(1) *RESTRICTION.*—Except as provided in
3 *paragraph (2), no service, element, feature, function,*
4 *or capability that is made available for resale in any*
5 *State by a Bell operating company may be jointly*
6 *marketed directly or indirectly with any interLATA*
7 *telephone toll service until such Bell operating com-*
8 *pany is authorized pursuant to section 245(c) to pro-*
9 *vide interLATA services in such State.*

10 “(2) *COMPETING PROVIDERS.*—Paragraph (1)
11 *shall not prohibit joint marketing of services, ele-*
12 *ments, features, functions, or capabilities acquired*
13 *from a Bell operating company by an unaffiliated*
14 *provider that, together with its affiliates, has in the*
15 *aggregate less than 2 percent of the access lines in-*
16 *stalled nationwide.*

17 “(e) *MODIFICATIONS AND WAIVERS.*—The Commission
18 *may modify or waive the requirements of this section for*
19 *any local exchange carrier (or class or category of such car-*
20 *riers) that has, in the aggregate nationwide, fewer than*
21 *500,000 access lines installed, to the extent that the Com-*
22 *mission determines that compliance with such requirements*
23 *(without such modification) would be unduly economically*
24 *burdensome or technologically infeasible.*

1 “(f) *EXEMPTION FOR CERTAIN RURAL TELEPHONE*
 2 *COMPANIES.*—Subsections (a) through (d) of this section
 3 shall not apply to a rural telephone company, until such
 4 company has received a bona fide request for services, ele-
 5 ments, features or capabilities described in subsections (a)
 6 through (d). Following a bona fide request to the carrier
 7 and notice of the request to the State commission, the State
 8 commission shall determine within 120 days whether the
 9 request would be unduly economically burdensome, be tech-
 10 nologically infeasible, and be consistent with subsections
 11 (b)(1) through (b)(5), (c)(1), and (c)(3) of section 247. The
 12 exemption provided by this subsection shall not apply if
 13 such carrier provides video programming services over its
 14 telephone exchange facilities in its telephone service area.

15 “(g) *TIME AND MANNER OF COMPLIANCE.*—The State
 16 shall establish, after determining pursuant to subsection (f)
 17 that a bona fide request is not economically burdensome,
 18 is technologically feasible, and is consistent with subsections
 19 (b)(1) through (b)(5), (c)(1), and (c)(3) of section 247, an
 20 implementation schedule for compliance with such ap-
 21 proved bona fide request that is consistent in time and
 22 manner with Commission rules.

23 “(h) *AVOIDANCE OF REDUNDANT REGULATIONS.*—

24 “(1) *COMMISSION REGULATIONS.*—Nothing in
 25 this section shall be construed to prohibit the Commis-

1 *sion from enforcing regulations prescribed prior to the*
 2 *date of enactment of this part in fulfilling the re-*
 3 *quirements of this section, to the extent that such reg-*
 4 *ulations are consistent with the provisions of this sec-*
 5 *tion.*

6 “(2) *STATE REGULATIONS.*—*Nothing in this sec-*
 7 *tion shall be construed to prohibit any State commis-*
 8 *sion from enforcing regulations prescribed prior to the*
 9 *date of enactment of this part, or from prescribing*
 10 *regulations after such date of enactment, in fulfilling*
 11 *the requirements of this section, if (A) such regula-*
 12 *tions are consistent with the provisions of this section,*
 13 *and (B) the enforcement of such regulations has not*
 14 *been precluded under subsection (b)(4)(B).*

15 **“SEC. 243. REMOVAL OF BARRIERS TO ENTRY.**

16 (a) *IN GENERAL.*—*No State or local statute or regula-*
 17 *tion, or other State or local legal requirement, may prohibit*
 18 *or have the effect of prohibiting the ability of any entity*
 19 *to provide interstate or intrastate telecommunications serv-*
 20 *ices.*

21 (b) *STATE AND LOCAL AUTHORITY.*—*Nothing in this*
 22 *section shall affect the ability of a State or local government*
 23 *to impose, on a competitively neutral basis and consistent*
 24 *with section 247 (relating to universal service), require-*
 25 *ments necessary to preserve and advance universal service,*

1 *protect the public safety and welfare, ensure the continued*
 2 *quality of telecommunications services, and safeguard the*
 3 *rights of consumers.*

4 (c) *LOCAL GOVERNMENT AUTHORITY.—Nothing in*
 5 *this Act affects the authority of a local government to man-*
 6 *age the public rights-of-way or to require fair and reason-*
 7 *able compensation from telecommunications providers, on*
 8 *a competitively neutral and nondiscriminatory basis, for*
 9 *use of the rights-of-way on a nondiscriminatory basis, if*
 10 *the compensation required is publicly disclosed by such gov-*
 11 *ernment.*

12 (d) *EXCEPTION.—In the case of commercial mobile*
 13 *services, the provisions of section 332(c)(3) shall apply in*
 14 *lieu of the provisions of this section.*

15 **“SEC. 244. STATEMENTS OF TERMS AND CONDITIONS FOR**
 16 **ACCESS AND INTERCONNECTION.**

17 “(a) *IN GENERAL.—Within 18 months after the date*
 18 *of enactment of this part, and from time to time thereafter,*
 19 *a local exchange carrier shall prepare and file with a State*
 20 *commission statements of the terms and conditions that*
 21 *such carrier generally offers within that State with respect*
 22 *to the services, elements, features, functions, or capabilities*
 23 *provided to comply with the requirements of section 242*
 24 *and the regulations thereunder. Any such statement per-*
 25 *taining to the charges for interstate services, elements, fea-*

1 *tures, functions, or capabilities shall be filed with the Com-*
 2 *mission.*

3 “(b) *REVIEW.*—

4 “(1) *STATE COMMISSION REVIEW.*—A *State com-*
 5 *mission to which a statement is submitted under sub-*
 6 *section (a) shall review such statement in accordance*
 7 *with State law. A State commission may not approve*
 8 *such statement unless such statement complies with*
 9 *section 242 and the regulations thereunder. Except as*
 10 *provided in section 243, nothing in this section shall*
 11 *prohibit a State commission from establishing or en-*
 12 *forcing other requirements of State law in its review*
 13 *of such statement, including requiring compliance*
 14 *with intrastate telecommunications service quality*
 15 *standards or requirements.*

16 “(2) *FCC REVIEW.*—The *Commission shall re-*
 17 *view such statements to ensure that—*

18 “(A) *the charges for interstate services, ele-*
 19 *ments, features, functions, or capabilities are*
 20 *just, reasonable, and nondiscriminatory; and*

21 “(B) *the terms and conditions for such*
 22 *interstate services or elements unbundle any sep-*
 23 *arable services, elements, features, functions, or*
 24 *capabilities in accordance with section 242(a)(2)*
 25 *and any regulations thereunder.*

1 “(c) *TIME FOR REVIEW.*—

2 “(1) *SCHEDULE FOR REVIEW.*—*The Commission*
3 *and the State commission to which a statement is*
4 *submitted shall, not later than 60 days after the date*
5 *of such submission—*

6 “(A) *complete the review of such statement*
7 *under subsection (b) (including any reconsider-*
8 *ation thereof), unless the submitting carrier*
9 *agrees to an extension of the period for such re-*
10 *view; or*

11 “(B) *permit such statement to take effect.*

12 “(2) *AUTHORITY TO CONTINUE REVIEW.*—*Para-*
13 *graph (1) shall not preclude the Commission or a*
14 *State commission from continuing to review a state-*
15 *ment that has been permitted to take effect under sub-*
16 *paragraph (B) of such paragraph.*

17 “(d) *EFFECT OF AGREEMENTS.*—*Nothing in this sec-*
18 *tion shall prohibit a carrier from filing an agreement to*
19 *provide services, elements, features, functions, or capabili-*
20 *ties affording access and interconnection as a statement of*
21 *terms and conditions that the carrier generally offers for*
22 *purposes of this section. An agreement affording access and*
23 *interconnection shall not be approved under this section un-*
24 *less the agreement contains a plan, including a reasonable*
25 *schedule, for the implementation of the requested access or*

1 *interconnection. The approval of a statement under this sec-*
 2 *tion shall not operate to prohibit a carrier from entering*
 3 *into subsequent agreements that contain terms and condi-*
 4 *tions that differ from those contained in a statement that*
 5 *has been reviewed and approved under this section, but—*

6 “(1) *each such subsequent agreement shall be*
 7 *filed under this section; and*

8 “(2) *such carrier shall be obligated to offer access*
 9 *to such services, elements, features, functions, or capa-*
 10 *bilities to other carriers and persons (including car-*
 11 *riers and persons covered by previously approved*
 12 *statements) requesting such access on terms and con-*
 13 *ditions that, in relation to the terms and conditions*
 14 *in such subsequent agreements, are not discrimina-*
 15 *tory.*

16 “(e) *SUNSET.—The provisions of this section shall*
 17 *cease to apply in any local exchange market, defined by*
 18 *geographic area and class or category of service, that the*
 19 *Commission and the State determines has become subject*
 20 *to full and open competition.*

21 **“SEC. 245. BELL OPERATING COMPANY ENTRY INTO**
 22 **INTERLATA SERVICES.**

23 “(a) *VERIFICATION OF ACCESS AND INTERCONNECTION*
 24 *COMPLIANCE.—At any time after 6 months after the date*
 25 *of enactment of this part, a Bell operating company may*

1 *provide to the Commission verification by such company*
 2 *with respect to one or more States that such company is*
 3 *in compliance with the requirements of this part. Such ver-*
 4 *ification shall contain the following:*

5 “(1) *CERTIFICATION.*—A certification by each
 6 State commission of such State or States that such
 7 carrier has fully implemented the conditions described
 8 in subsection (b), except as provided in subsection
 9 (c)(2).

10 “(2) *AGREEMENT OR STATEMENT.*—For each
 11 such State, either of the following:

12 “(A) *PRESENCE OF A FACILITIES-BASED*
 13 *COMPETITOR.*—An agreement that has been ap-
 14 proved under section 244 specifying the terms
 15 and conditions under which the Bell operating
 16 company is providing access and interconnection
 17 to its network facilities in accordance with sec-
 18 tion 242 for the network facilities of an unaffili-
 19 ated competing provider of telephone exchange
 20 service (as defined in section 3(44)(A), but ex-
 21 cluding exchange access service) to residential
 22 and business subscribers. For the purpose of this
 23 subparagraph, such telephone exchange service
 24 may be offered by such competing provider either
 25 exclusively over its own telephone exchange serv-

1 *ice facilities or predominantly over its own tele-*
 2 *phone exchange service facilities in combination*
 3 *with the resale of the services of another carrier.*
 4 *For the purpose of this subparagraph, services*
 5 *provided pursuant to subpart K of part 22 of the*
 6 *Commission's regulations (47 C.F.R. 22.901 et*
 7 *seq.) shall not be considered to be telephone ex-*
 8 *change services.*

9 *“(B) FAILURE TO REQUEST ACCESS.—If no*
 10 *such provider has requested such access and*
 11 *interconnection before the date which is 3 months*
 12 *before the date the company makes its submis-*
 13 *sion under this subsection, a statement of the*
 14 *terms and conditions that the carrier generally*
 15 *offers to provide such access and interconnection*
 16 *that has been approved or permitted to take ef-*
 17 *fect by the State commission under section 244.*

18 *For purposes of subparagraph (B), a Bell operating*
 19 *company shall be considered not to have received any*
 20 *request for access or interconnection if the State com-*
 21 *mission of such State or States certifies that the only*
 22 *provider or providers making such request have (i)*
 23 *failed to bargain in good faith under the supervision*
 24 *of such State commission pursuant to section*
 25 *242(a)(8), or (ii) have violated the terms of their*

1 *agreement by failure to comply, within a reasonable*
 2 *period of time, with the implementation schedule con-*
 3 *tained in such agreement.*

4 “(b) *CERTIFICATION OF COMPLIANCE WITH PART*
 5 *II.—For the purposes of subsection (a)(1), a Bell operating*
 6 *company shall submit to the Commission a certification by*
 7 *a State commission of compliance with each of the following*
 8 *conditions in any area where such company provides local*
 9 *exchange service or exchange access in such State:*

10 “(1) *INTERCONNECTION.—The Bell operating*
 11 *company provides access and interconnection in ac-*
 12 *cordance with subsections (a)(1) and (b) of section*
 13 *242 to any other carrier or person offering tele-*
 14 *communications services requesting such access and*
 15 *interconnection, and complies with the Commission*
 16 *regulations pursuant to such section concerning such*
 17 *access and interconnection.*

18 “(2) *UNBUNDLING OF NETWORK ELEMENTS.—*
 19 *The Bell operating company provides unbundled serv-*
 20 *ices, elements, features, functions, and capabilities in*
 21 *accordance with subsection (a)(2) of section 242 and*
 22 *the regulations prescribed by the Commission pursu-*
 23 *ant to such section.*

24 “(3) *RESALE.—The Bell operating company of-*
 25 *fers services, elements, features, functions, and capa-*

1 **ilities for resale in accordance with section**
 2 **242(a)(3), and neither the Bell operating company,**
 3 **nor any unit of State or local government within the**
 4 **State, imposes any restrictions on resale or sharing of**
 5 **telephone exchange service (or unbundled services, ele-**
 6 **ments, features, or functions of telephone exchange**
 7 **service) in violation of section 242(a)(3).**

8 “(4) *NUMBER PORTABILITY.*—The Bell operating
 9 company provides number portability in compliance
 10 with the Commission’s regulations pursuant to sub-
 11 sections (a)(4) and (c) of section 242.

12 “(5) *DIALING PARITY.*—The Bell operating com-
 13 pany provides dialing parity in accordance with sub-
 14 sections (a)(5) and (c) of section 242, and will, not
 15 later than the effective date of its authority to com-
 16 mence providing interLATA services, take such ac-
 17 tions as are necessary to provide dialing parity for
 18 intraLATA telephone toll service in accordance with
 19 such subsections.

20 “(6) *ACCESS TO CONDUITS AND RIGHTS OF*
 21 *WAY.*—The poles, ducts, conduits, and rights of way
 22 of such Bell operating company are available to com-
 23 peting providers of telecommunications services in ac-
 24 cordance with the requirements of sections 242(a)(6)
 25 and 224(d).

1 “(7) *ELIMINATION OF FRANCHISE LIMITA-*
 2 *TIONS.—No unit of the State or local government in*
 3 *such State or States enforces any prohibition or limi-*
 4 *tation in violation of section 243.*

5 “(8) *NETWORK FUNCTIONALITY AND ACCESSIBIL-*
 6 *ITY.—The Bell operating company will not install*
 7 *network features, functions, or capabilities that do not*
 8 *comply with the standards established pursuant to*
 9 *section 249.*

10 “(9) *NEGOTIATION OF TERMS AND CONDI-*
 11 *TIONS.—The Bell operating company has negotiated*
 12 *in good faith, under the supervision of the State com-*
 13 *mission, in accordance with the requirements of sec-*
 14 *tion 242(a)(8) with any other carrier or person re-*
 15 *questing access or interconnection.*

16 “(c) *COMMISSION REVIEW.—*

17 “(1) *REVIEW OF STATE DECISIONS AND CERTIFI-*
 18 *CATIONS.—The Commission shall review any verifica-*
 19 *tion submitted by a Bell operating company pursuant*
 20 *to subsection (a). The Commission may require such*
 21 *company to submit such additional information as is*
 22 *necessary to validate any of the items of such verifica-*
 23 *tion.*

24 “(2) *DE NOVO REVIEW.—If—*

1 “(A) a State commission does not have the
2 jurisdiction or authority to make the certifi-
3 cation required by subsection (b);

4 “(B) the State commission has failed to act
5 within 90 days after the date a request for such
6 certification is filed with such State commission;
7 or

8 “(C) the State commission has sought to
9 impose a term or condition in violation of sec-
10 tion 243;

11 the local exchange carrier may request the Commis-
12 sion to certify the carrier’s compliance with the con-
13 ditions specified in subsection (b).

14 “(3) CONSULTATION WITH THE ATTORNEY GEN-
15 ERAL.—The Commission shall notify the Attorney
16 General promptly of any verification submitted for
17 approval under this subsection, and shall identify
18 any verification that, if approved, would relieve the
19 Bell operating company and its affiliates of the pro-
20 hibition concerning manufacturing contained in sec-
21 tion 271(a). Before making any determination under
22 this subsection, the Commission shall consult with the
23 Attorney General, and if the Attorney General sub-
24 mits any comments in writing, such comments shall
25 be included in the record of the Commission’s deci-

1 *sion. In consulting with and submitting comments to*
2 *the Commission under this paragraph, the Attorney*
3 *General shall provide to the Commission an evalua-*
4 *tion of whether there is a dangerous probability that*
5 *the Bell operating company or its affiliates would*
6 *successfully use market power to substantially impede*
7 *competition in the market such company seeks to*
8 *enter. In consulting with and submitting comments to*
9 *the Commission under this paragraph with respect to*
10 *a verification that, if approved, would relieve the Bell*
11 *operating company and its affiliates of the prohibi-*
12 *tion concerning manufacturing contained in section*
13 *271(a), the Attorney General shall also provide to the*
14 *Commission an evaluation of whether there is a dan-*
15 *gerous probability that the Bell operating company or*
16 *its affiliates would successfully use market power to*
17 *substantially impede competition in manufacturing.*

18 *“(4) TIME FOR DECISION; PUBLIC COMMENT.—*
19 *Unless such Bell operating company consents to a*
20 *longer period of time, the Commission shall approve,*
21 *disapprove, or approve with conditions such verifica-*
22 *tion within 90 days after the date of its submission.*
23 *During such 90 days, the Commission shall afford in-*
24 *terested persons an opportunity to present informa-*
25 *tion and evidence concerning such verification.*

1 “(5) *STANDARD FOR DECISION.*—*The Commis-*
 2 *sion shall not approve such verification unless the*
 3 *Commission determines that—*

4 “(A) *the Bell operating company meets each*
 5 *of the conditions required to be certified under*
 6 *subsection (b); and*

7 “(B) *the agreement or statement submitted*
 8 *under subsection (a)(2) complies with the re-*
 9 *quirements of section 242 and the regulations*
 10 *thereunder.*

11 “(d) *ENFORCEMENT OF CONDITIONS.*—

12 “(1) *COMMISSION AUTHORITY.*—*If at any time*
 13 *after the approval of a verification under subsection*
 14 *(c), the Commission determines that a Bell operating*
 15 *company has ceased to meet any of the conditions re-*
 16 *quired to be certified under subsection (b), the Com-*
 17 *mission may, after notice and opportunity for a hear-*
 18 *ing—*

19 “(A) *issue an order to such company to cor-*
 20 *rect the deficiency;*

21 “(B) *impose a penalty on such company*
 22 *pursuant to title V; or*

23 “(C) *suspend or revoke such approval.*

24 “(2) *RECEIPT AND REVIEW OF COMPLAINTS.*—
 25 *The Commission shall establish procedures for the re-*

1 *view of complaints concerning failures by Bell operat-*
 2 *ing companies to meet conditions required to be cer-*
 3 *tified under subsection (b). Unless the parties other-*
 4 *wise agree, the Commission shall act on such com-*
 5 *plaint within 90 days.*

6 “(3) *STATE AUTHORITY.*—*The authority of the*
 7 *Commission under this subsection shall not be con-*
 8 *strued to preempt any State commission from taking*
 9 *actions to enforce the conditions required to be cer-*
 10 *tified under subsection (b).*

11 “(e) *AUTHORITY TO PROVIDE INTERLATA SERV-*
 12 *ICES.*—

13 “(1) *PROHIBITION.*—*Except as provided in*
 14 *paragraph (2) and subsections (f), (g), and (h), a Bell*
 15 *operating company or affiliate thereof may not pro-*
 16 *vide interLATA services.*

17 “(2) *AUTHORITY SUBJECT TO CERTIFICATION.*—
 18 *A Bell operating company or affiliate thereof may, in*
 19 *any States to which its verification under subsection*
 20 *(a) applies, provide interLATA services—*

21 “(A) *during any period after the effective*
 22 *date of the Commission’s approval of such ver-*
 23 *ification pursuant to subsection (c), and*

1 “(B) until the approval of such verification
 2 is suspended or revoked by the Commission pur-
 3 suant to subsection (c).

4 “(f) *EXCEPTION FOR PREVIOUSLY AUTHORIZED AC-*
 5 *TIVITIES.*—Subsection (e) shall not prohibit a Bell operat-
 6 ing company or affiliate from engaging, at any time after
 7 the date of the enactment of this part, in any activity as
 8 authorized by an order entered by the United States Dis-
 9 trict Court for the District of Columbia pursuant to section
 10 VII or VIII(C) of the Modification of Final Judgment, if—

11 “(1) such order was entered on or before the date
 12 of the enactment of this part, or

13 “(2) a request for such authorization was pend-
 14 ing before such court on the date of the enactment of
 15 this part.

16 “(g) *EXCEPTIONS FOR INCIDENTAL SERVICES.*—Sub-
 17 section (e) shall not prohibit a Bell operating company or
 18 affiliate thereof, at any time after the date of the enactment
 19 of this part, from providing interLATA services for the pur-
 20 pose of—

21 “(1)(A) providing audio programming, video
 22 programming, or other programming services to sub-
 23 scribers to such services of such company;

24 “(B) providing the capability for interaction by
 25 such subscribers to select or respond to such audio

1 *programming, video programming, or other program-*
2 *ming services; or*

3 *“(C) providing to distributors audio program-*
4 *ming or video programming that such company owns*
5 *or controls, or is licensed by the copyright owner of*
6 *such programming (or by an assignee of such owner)*
7 *to distribute;*

8 *“(2) providing a telecommunications service,*
9 *using the transmission facilities of a cable system*
10 *that is an affiliate of such company, and that is lo-*
11 *cated within a State in which such company is not,*
12 *on the date of the enactment of this part, a provider*
13 *of wireline telephone exchange service;*

14 *“(3) providing commercial mobile services in ac-*
15 *cordance with section 332(c) of this Act and with the*
16 *regulations prescribed by the Commission pursuant to*
17 *paragraph (8) of such section;*

18 *“(4) providing a service that permits a customer*
19 *that is located in one local access and transport area*
20 *to retrieve stored information from, or file informa-*
21 *tion for storage in, information storage facilities of*
22 *such company that are located in another local access*
23 *and transport area;*

24 *“(5) providing signaling information used in*
25 *connection with the provision of telephone exchange*

1 *services to a local exchange carrier that, together with*
 2 *any affiliated local exchange carriers, has aggregate*
 3 *annual revenues of less than \$100,000,000; or*

4 *“(6) providing network control signaling infor-*
 5 *mation to, and receiving such signaling information*
 6 *from, common carriers offering interLATA services at*
 7 *any location within the area in which such Bell oper-*
 8 *ating company provides telephone exchange services*
 9 *or exchange access.*

10 *“(h) OUT-OF-REGION SERVICES.—When a Bell operat-*
 11 *ing company and its affiliates have obtained Commission*
 12 *approval under subsection (c) for each State in which such*
 13 *Bell operating company and its affiliates provide telephone*
 14 *exchange service on the date of enactment of this part, such*
 15 *Bell operating company and any affiliate thereof may, not-*
 16 *withstanding subsection (e), provide interLATA services—*

17 *“(1) for calls originating in, and billed to a cus-*
 18 *tomer in, a State in which neither such company nor*
 19 *any affiliate provided telephone exchange service on*
 20 *such date of enactment; or*

21 *“(2) for calls originating outside the United*
 22 *States.*

23 *“(i) INTRALATA TOLL DIALING PARITY.—Neither the*
 24 *Commission nor any State may order any Bell operating*
 25 *company to provide dialing parity for intraLATA tele-*

1 *phone toll service in any State before the date such company*
 2 *is authorized to provide interLATA services in such State*
 3 *pursuant to this section.*

4 “(j) *FORBEARANCE.*—*The Commission may not, pur-*
 5 *suant to section 230, forbear from applying any provision*
 6 *of this section or any regulation thereunder until at least*
 7 *5 years after the date of enactment of this part.*

8 “(k) *SUNSET.*—*The provisions of this section shall*
 9 *cease to apply in any local exchange market, defined by*
 10 *geographic area and class or category of service, that the*
 11 *Commission and the State determines has become subject*
 12 *to full and open competition.*

13 “(l) *DEFINITIONS.*—*As used in this section—*

14 “(1) *AUDIO PROGRAMMING.*—*The term ‘audio*
 15 *programming’ means programming provided by, or*
 16 *generally considered comparable to programming pro-*
 17 *vided by, a radio broadcast station.*

18 “(2) *VIDEO PROGRAMMING.*—*The term ‘video*
 19 *programming’ has the meaning provided in section*
 20 *602.*

21 “(3) *OTHER PROGRAMMING SERVICES.*—*The*
 22 *term ‘other programming services’ means information*
 23 *(other than audio programming or video program-*
 24 *ming) that the person who offers a video program-*
 25 *ming service makes available to all subscribers gen-*

1 *erally. For purposes of the preceding sentence, the*
 2 *terms 'information' and 'makes available to all sub-*
 3 *scribers generally' have the same meaning such terms*
 4 *have under section 602(13) of this Act.*

5 ***“SEC. 246. COMPETITIVE SAFEGUARDS.***

6 *“(a) IN GENERAL.—In accordance with the require-*
 7 *ments of this section and the regulations adopted there-*
 8 *under, a Bell operating company or any affiliate thereof*
 9 *providing any interLATA telecommunications or*
 10 *interLATA information service, shall do so through a sub-*
 11 *sidiary that is separate from the Bell operating company*
 12 *or any affiliate thereof that provides telephone exchange*
 13 *service. The requirements of this section shall not apply*
 14 *with respect to (1) activities in which a Bell operating com-*
 15 *pany or affiliate may engage pursuant to section 245(f),*
 16 *or (2) incidental services in which a Bell operating com-*
 17 *pany or affiliate may engage pursuant to section 245(g),*
 18 *other than services described in paragraph (4) of such sec-*
 19 *tion.*

20 *“(b) TRANSACTION REQUIREMENTS.—Any transaction*
 21 *between such a subsidiary and a Bell operating company*
 22 *and any other affiliate of such company shall be conducted*
 23 *on an arm's-length basis, in the same manner as the Bell*
 24 *operating company conducts business with unaffiliated per-*
 25 *sons, and shall not be based upon any preference or dis-*

1 *crimination in favor of the subsidiary arising out of the*
 2 *subsidiary's affiliation with such company.*

3 “(c) *SEPARATE OPERATION AND PROPERTY.*—A sub-
 4 *sidiary required by this section shall—*

5 “(1) *operate independently from the Bell operat-*
 6 *ing company or any affiliate thereof,*

7 “(2) *have separate officers, directors, and em-*
 8 *ployees who may not also serve as officers, directors,*
 9 *or employees of the Bell operating company or any*
 10 *affiliate thereof,*

11 “(3) *not enter into any joint venture activities or*
 12 *partnership with a Bell operating company or any*
 13 *affiliate thereof,*

14 “(4) *not own any telecommunications trans-*
 15 *mission or switching facilities in common with the*
 16 *Bell operating company or any affiliate thereof, and*

17 “(5) *not jointly own or share the use of any*
 18 *other property with the Bell operating company or*
 19 *any affiliate thereof.*

20 “(d) *BOOKS, RECORDS, AND ACCOUNTS.*—Any subsidi-
 21 *ary required by this section shall maintain books, records,*
 22 *and accounts in a manner prescribed by the Commission*
 23 *which shall be separate from the books, records, and ac-*
 24 *counts maintained by a Bell operating company or any af-*
 25 *filiate thereof.*

1 “(e) *PROVISION OF SERVICES AND INFORMATION.*—A
 2 *Bell operating company or any affiliate thereof may not*
 3 *discriminate between a subsidiary required by this section*
 4 *and any other person in the provision or procurement of*
 5 *goods, services, facilities, or information, or in the establish-*
 6 *ment of standards, and shall not provide any goods, serv-*
 7 *ices, facilities or information to a subsidiary required by*
 8 *this section unless such goods, services, facilities or informa-*
 9 *tion are made available to others on reasonable, non-*
 10 *discriminatory terms and conditions.*

11 “(f) *PREVENTION OF CROSS-SUBSIDIES.*—A *Bell oper-*
 12 *ating company or any affiliate thereof required to maintain*
 13 *a subsidiary under this section shall establish and admin-*
 14 *ister, in accordance with the requirements of this section*
 15 *and the regulations prescribed thereunder, a cost allocation*
 16 *system that prohibits any cost of providing interLATA tele-*
 17 *communications or interLATA information services from*
 18 *being subsidized by revenue from telephone exchange serv-*
 19 *ices and telephone exchange access services. The cost alloca-*
 20 *tion system shall employ a formula that ensures that—*

21 “(1) *the rates for telephone exchange services and*
 22 *exchange access are no greater than they would have*
 23 *been in the absence of such investment in interLATA*
 24 *telecommunications or interLATA information serv-*
 25 *ices (taking into account any decline in the real costs*

1 *of providing such telephone exchange services and ex-*
2 *change access); and*

3 “(2) *such interLATA telecommunications or*
4 *interLATA information services bear a reasonable*
5 *share of the joint and common costs of facilities used*
6 *to provide telephone exchange, exchange access, and*
7 *competitive services.*

8 “(g) *ASSETS.—The Commission shall, by regulation,*
9 *ensure that the economic risks associated with the provision*
10 *of interLATA telecommunications or interLATA informa-*
11 *tion services by a Bell operating company or any affiliate*
12 *thereof (including any increases in such company’s cost of*
13 *capital that occur as a result of the provision of such serv-*
14 *ices) are not borne by customers of telephone exchange serv-*
15 *ices and exchange access in the event of a business loss or*
16 *failure. Investments or other expenditures assigned to*
17 *interLATA telecommunications or interLATA information*
18 *services shall not be reassigned to telephone exchange service*
19 *or exchange access.*

20 “(h) *DEBT.—A subsidiary required by this section*
21 *shall not obtain credit under any arrangement that*
22 *would—*

23 “(1) *permit a creditor, upon default, to have re-*
24 *source to the assets of a Bell operating company; or*

1 “(2) induce a creditor to rely on the tangible or
2 intangible assets of a Bell operating company in ex-
3 tending credit.

4 “(i) *FULFILLMENT OF CERTAIN REQUESTS.*—A Bell
5 operating company or an affiliate thereof shall—

6 “(1) fulfill any requests from an unaffiliated en-
7 tity for telephone exchange service and exchange ac-
8 cess within a period no longer than the period in
9 which it provides such telephone exchange service and
10 exchange access to itself or to its affiliates;

11 “(2) fulfill any such requests with telephone ex-
12 change service and exchange access of a quality that
13 meets or exceeds the quality of telephone exchange
14 services and exchange access provided by the Bell op-
15 erating company or its affiliates to itself or its affili-
16 ates; and

17 “(3) provide telephone exchange service and ex-
18 change access to all providers of intraLATA or
19 interLATA telephone toll services and interLATA in-
20 formation services at cost-based rates that are not un-
21 reasonably discriminatory.

22 “(j) *CHARGES FOR ACCESS SERVICES.*—A Bell operat-
23 ing company or an affiliate thereof shall charge the subsidi-
24 ary required by this section an amount for telephone ex-
25 change services, exchange access, and other necessary associ-

1 *ated inputs no less than the rate charged to any unaffiliated*
 2 *entity for such access and inputs.*

3 “(k) *SUNSET.*—*The provisions of this section shall*
 4 *cease to apply to any Bell operating company in any State*
 5 *18 months after the date such Bell operating company is*
 6 *authorized pursuant to section 245(c) to provide interLATA*
 7 *telecommunications services in such State.*

8 **“SEC. 247. UNIVERSAL SERVICE.**

9 “(a) *JOINT BOARD TO PRESERVE UNIVERSAL SERV-*
 10 *ICE.*—*Within 30 days after the date of enactment of this*
 11 *part, the Commission shall convene a Federal-State Joint*
 12 *Board under section 410(c) for the purpose of recommend-*
 13 *ing actions to the Commission and State commissions for*
 14 *the preservation of universal service in furtherance of the*
 15 *purposes set forth in section 1 of this Act. In addition to*
 16 *the members required under section 410(c), one member of*
 17 *the Joint Board shall be a State-appointed utility consumer*
 18 *advocate nominated by a national organization of State*
 19 *utility consumer advocates.*

20 “(b) *PRINCIPLES.*—*The Joint Board shall base policies*
 21 *for the preservation of universal service on the following*
 22 *principles:*

23 “(1) *JUST AND REASONABLE RATES.*—*A plan*
 24 *adopted by the Commission and the States should en-*
 25 *sure the continued viability of universal service by*

1 *maintaining quality services at just and reasonable*
 2 *rates.*

3 “(2) *DEFINITIONS OF INCLUDED SERVICES; COM-*
 4 *PARABILITY IN URBAN AND RURAL AREAS.—Such*
 5 *plan should recommend a definition of the nature and*
 6 *extent of the services encompassed within carriers’*
 7 *universal service obligations. Such plan should seek to*
 8 *promote access to advanced telecommunications serv-*
 9 *ices and capabilities, and to promote reasonably com-*
 10 *parable services for the general public in urban and*
 11 *rural areas, while maintaining just and reasonable*
 12 *rates.*

13 “(3) *ADEQUATE AND SUSTAINABLE SUPPORT*
 14 *MECHANISMS.—Such plan should recommend specific*
 15 *and predictable mechanisms to provide adequate and*
 16 *sustainable support for universal service.*

17 “(4) *EQUITABLE AND NONDISCRIMINATORY CON-*
 18 *TRIBUTIONS.—All providers of telecommunications*
 19 *services should make an equitable and nondiscrim-*
 20 *inatory contribution to the preservation of universal*
 21 *service.*

22 “(5) *EDUCATIONAL ACCESS TO ADVANCED TELE-*
 23 *COMMUNICATIONS SERVICES.—To the extent that a*
 24 *common carrier establishes advanced telecommuni-*
 25 *cations services, such plan should include rec-*

1 *ommendations to ensure access to advanced tele-*
2 *communications services for students in elementary*
3 *and secondary schools.*

4 “(6) *ADDITIONAL PRINCIPLES.*—*Such other prin-*
5 *ciples as the Board determines are necessary and ap-*
6 *propriate for the protection of the public interest, con-*
7 *venience, and necessity and consistent with the pur-*
8 *poses of this Act.*

9 “(c) *DEFINITION OF UNIVERSAL SERVICE.*—*In rec-*
10 *ommending a definition of the nature and extent of the serv-*
11 *ices encompassed within carriers’ universal service obliga-*
12 *tions under subsection (b)(2), the Joint Board shall consider*
13 *the extent to which—*

14 “(1) *a telecommunications service has, through*
15 *the operation of market choices by customers, been*
16 *subscribed to by a substantial majority of residential*
17 *customers;*

18 “(2) *such service or capability is essential to*
19 *public health, public safety, or the public interest;*

20 “(3) *such service has been deployed in the public*
21 *switched telecommunications network; and*

22 “(4) *inclusion of such service within carriers’*
23 *universal service obligations is otherwise consistent*
24 *with the public interest, convenience, and necessity.*

1 *The Joint Board may, from time to time, recommend to*
 2 *the Commission modifications in the definition proposed*
 3 *under subsection (b).*

4 “(d) *REPORT; COMMISSION RESPONSE.*—*The Joint*
 5 *Board convened pursuant to subsection (a) shall report its*
 6 *recommendations within 6 months after the date of enact-*
 7 *ment of this part. The Commission shall complete any pro-*
 8 *ceeding to act upon such recommendations and to comply*
 9 *with the principles set forth in subsection (b) within one*
 10 *year after such date of enactment.*

11 “(e) *STATE AUTHORITY.*—*Nothing in this section shall*
 12 *be construed to restrict the authority of any State to adopt*
 13 *regulations imposing universal service obligations on the*
 14 *provision of intrastate telecommunications services.*

15 “(f) *SUNSET.*—*The Joint Board established by this sec-*
 16 *tion shall cease to exist 5 years after the date of enactment*
 17 *of this part.*

18 **“SEC. 248. PRICING FLEXIBILITY AND ABOLITION OF RATE-**
 19 **OF-RETURN REGULATION.**

20 “(a) *PRICING FLEXIBILITY.*—

21 “(1) *COMMISSION CRITERIA.*—*Within 270 days*
 22 *after the date of enactment of this part, the Commis-*
 23 *sion shall complete all actions necessary (including*
 24 *any reconsideration) to establish—*

1 “(A) criteria for determining whether a tele-
2 communications service or provider of such serv-
3 ice has become, or is substantially certain to be-
4 come, subject to competition, either within a geo-
5 graphic area or within a class or category of
6 service; and

7 “(B) appropriate flexible pricing procedures
8 that afford a regulated provider of a service de-
9 scribed in subparagraph (A) the opportunity to
10 respond fairly to such competition and that are
11 consistent with the protection of subscribers and
12 the public interest, convenience, and necessity.

13 In establishing criteria and procedures pursuant to
14 this paragraph, the Commission shall take into ac-
15 count and accommodate, to the extent reasonable and
16 consistent with the purposes of this section, the cri-
17 teria and procedures established for such purposes by
18 State commissions prior to the effective date of the
19 Commission’s criteria and procedures under this sec-
20 tion.

21 “(2) STATE SELECTION.—A State commission
22 may utilize the flexible pricing procedures or proce-
23 dures (established under paragraph (1)(B)) that are
24 appropriate in light of the criteria established under
25 paragraph (1)(A).

1 “(3) *DETERMINATIONS.*—*The Commission, with*
 2 *respect to rates for interstate or foreign communica-*
 3 *tions, and State commissions, with respect to rates for*
 4 *intrastate communications, shall, upon application—*

5 “(A) *render determinations in accordance*
 6 *with the criteria established under paragraph*
 7 *(1)(A) concerning the services or providers that*
 8 *are the subject of such application; and*

9 “(B) *upon a proper showing, implement*
 10 *appropriate flexible pricing procedures consistent*
 11 *with paragraphs (1)(B) and (2) with respect to*
 12 *such services or providers.*

13 *The Commission and such State commission shall ap-*
 14 *prove or reject any such application within 180 days*
 15 *after the date of its submission.*

16 “(4) *RESPONSE TO COMPETITION.*—*Pricing flexi-*
 17 *bility implemented pursuant to this subsection shall*
 18 *permit regulated telecommunications providers to re-*
 19 *spond fairly to competition by repricing services sub-*
 20 *ject to competition, but shall not have the effect of*
 21 *changing prices for noncompetitive services or using*
 22 *noncompetitive services to subsidize competitive serv-*
 23 *ices.*

24 “(b) *ABOLITION OF RATE-OF-RETURN REGULATION.*—
 25 *Notwithstanding any other provision of law, to the extent*

1 *that a carrier has complied with sections 242 and 244 of*
 2 *this part, the Commission, with respect to rates for inter-*
 3 *state or foreign communications, and State commissions,*
 4 *with respect to rates for intrastate communications, shall*
 5 *not require rate-of-return regulation.*

6 “(c) *TERMINATION OF PRICE AND OTHER REGULA-*
 7 *TION.—Notwithstanding any other provision of law, to the*
 8 *extent that a carrier has complied with sections 242 and*
 9 *244 of this part, the Commission, with respect to interstate*
 10 *or foreign communications, and State commissions, with*
 11 *respect to intrastate communications, shall not, for any*
 12 *service that is determined, in accordance with the criteria*
 13 *established under subsection (a)(1)(A), to be subject to com-*
 14 *petition that effectively prevents prices for such service that*
 15 *are unjust or unreasonable or unjustly or unreasonably dis-*
 16 *criminatory—*

17 “(1) *regulate the prices for such service;*

18 “(2) *require the filing of a schedule of charges for*
 19 *such service;*

20 “(3) *require the filing of any cost or revenue pro-*
 21 *jections for such service;*

22 “(4) *regulate the depreciation charges for facili-*
 23 *ties used to provide such service; or*

1 “(5) require prior approval for the construction
2 or extension of lines or other equipment for the provi-
3 sion of such service.

4 “(d) ABILITY TO CONTINUE AFFORDABLE VOICE-
5 GRADE SERVICE.—Notwithstanding subsections (a), (b),
6 and (c), each State commission shall, for a period of not
7 more than 3 years, permit residential subscribers to con-
8 tinue to receive only basic voice-grade local telephone service
9 equivalent to the service generally available to residential
10 subscribers on the date of enactment of this part, at just,
11 reasonable, and affordable rates. Determinations concerning
12 the affordability of rates for such services shall take into
13 account the rates generally available to residential subscrib-
14 ers on such date of enactment and the pricing rules estab-
15 lished by the States. Any increases in the rates for such
16 services for residential subscribers that are not attributable
17 to changes in consumer prices generally shall be permitted
18 in any proceeding commenced after the date of enactment
19 of this section upon a showing that such increase is nec-
20 essary to ensure the continued availability of universal serv-
21 ice, prevent economic disadvantages for one or more service
22 providers, and is in the public interest. Such increase in
23 rates shall be minimized to the greatest extent practical and
24 shall be implemented over a time period of not more than
25 3 years after the the date of enactment of this section. The

1 *requirements of this subsection shall not apply to any rural*
 2 *telephone company if the rates for basic voice-grade local*
 3 *telephone service of that company are not subject to regula-*
 4 *tion by a State commission on the date of enactment of*
 5 *this part.*

6 “(e) *INTEREXCHANGE SERVICE.*—*The rates charged by*
 7 *providers of interexchange telecommunications service to*
 8 *customers in rural and high cost areas shall be maintained*
 9 *at levels no higher than those charged by each such provider*
 10 *to its customers in urban areas.*

11 “(f) *EXCEPTION.*—*In the case of commercial mobile*
 12 *services, the provisions of section 332(c)(1) shall apply in*
 13 *lieu of the provisions of this section.*

14 “(g) *AVOIDANCE OF REDUNDANT REGULATIONS.*—

15 “(1) *COMMISSION REGULATIONS.*—*Nothing in*
 16 *this section shall be construed to prohibit the Commis-*
 17 *sion from enforcing regulations prescribed prior to the*
 18 *date of enactment of this part in fulfilling the re-*
 19 *quirements of this section, to the extent that such reg-*
 20 *ulations are consistent with the provisions of this sec-*
 21 *tion.*

22 “(2) *STATE REGULATIONS.*—*Nothing in this sec-*
 23 *tion shall be construed to prohibit any State commis-*
 24 *sion from enforcing regulations prescribed prior to the*
 25 *effective date of the Commission’s criteria and proce-*

1 *dures under this section in fulfilling the requirements*
 2 *of this section, or from prescribing regulations after*
 3 *such date, to the extent such regulations are consist-*
 4 *ent—*

5 *“(A) with the provisions of this section; and*

6 *“(B) after such effective date, with such cri-*
 7 *teria and procedures.*

8 **“SEC. 249. NETWORK FUNCTIONALITY AND ACCESSIBILITY.**

9 *“(a) FUNCTIONALITY AND ACCESSIBILITY.—The duty*
 10 *of a common carrier under section 201(a) to furnish com-*
 11 *munications service includes the duty to furnish that service*
 12 *in accordance with any standards established pursuant to*
 13 *this section.*

14 *“(b) COORDINATION FOR INTERCONNECTIVITY.—The*
 15 *Commission—*

16 *“(1) shall establish procedures for Commission*
 17 *oversight of coordinated network planning by common*
 18 *carriers and other providers of telecommunications*
 19 *services for the effective and efficient interconnection*
 20 *of public switched networks; and*

21 *“(2) may participate, in a manner consistent*
 22 *with its authority and practice prior to the date of*
 23 *enactment of this section, in the development by ap-*
 24 *propriate industry standards-setting organizations of*
 25 *interconnection standards that promote access to—*

1 “(A) *network capabilities and services by*
2 *individuals with disabilities; and*

3 “(B) *information services by subscribers to*
4 *telephone exchange service furnished by a rural*
5 *telephone company.*

6 “(C) *ACCESSIBILITY FOR INDIVIDUALS WITH DISABIL-*
7 *ITIES.—*

8 “(1) *ACCESSIBILITY.—Within 1 year after the*
9 *date of enactment of this section, the Commission*
10 *shall prescribe such regulations as are necessary to*
11 *ensure that, if readily achievable, advances in net-*
12 *work services deployed by common carriers, and tele-*
13 *communications equipment and customer premises*
14 *equipment manufactured for use in conjunction with*
15 *network services, shall be accessible and usable by in-*
16 *dividuals with disabilities, including individuals with*
17 *functional limitations of hearing, vision, movement,*
18 *manipulation, speech, and interpretation of informa-*
19 *tion. Such regulations shall permit the use of both*
20 *standard and special equipment, and seek to mini-*
21 *mize the need of individuals to acquire additional de-*
22 *vices beyond those used by the general public to ob-*
23 *tain such access. Throughout the process of developing*
24 *such regulations, the Commission shall coordinate*
25 *and consult with representatives of individuals with*

1 *disabilities and interested equipment and service pro-*
 2 *viders to ensure their concerns and interests are given*
 3 *full consideration in such process.*

4 “(2) *COMPATIBILITY.*—Such regulations shall re-
 5 *quire that whenever the requirements of paragraph*
 6 *(1) are not readily achievable, the local exchange car-*
 7 *rier that deploys the network service shall ensure that*
 8 *the network service in question is compatible with ex-*
 9 *isting peripheral devices or specialized customer*
 10 *premises equipment commonly used by persons with*
 11 *disabilities to achieve access, unless doing so is not*
 12 *readily achievable.*

13 “(3) *READILY ACHIEVEABLE.*—The term ‘readily
 14 *achievable’ has the meaning given it by section 301(g)*
 15 *of the Americans with Disabilities Act 1990 (42*
 16 *U.S.C. 12102(g)).*

17 “(4) *EFFECTIVE DATE.*—The regulations re-
 18 *quired by this subsection shall become effective 18*
 19 *months after the date of enactment of this part.*

20 “(d) *PRIVATE RIGHTS OF ACTIONS PROHIBITED.*—
 21 *Nothing in this section shall be construed to authorize any*
 22 *private right of action to enforce any requirement of this*
 23 *section or any regulation thereunder. The Commission shall*
 24 *have exclusive jurisdiction with respect to any complaint*
 25 *under this section.*

1 **“SEC. 250. MARKET ENTRY BARRIERS.**

2 “(a) *ELIMINATION OF BARRIERS.*—Within 15 months
 3 after the date of enactment of this part, the Commission
 4 shall complete a proceeding for the purpose of identifying
 5 and eliminating, by regulations pursuant to its authority
 6 under this Act (other than this section), market entry bar-
 7 riers for entrepreneurs and other small businesses in the
 8 provision and ownership of telecommunications services
 9 and information services, or in the provision of parts or
 10 services to providers of telecommunications services and in-
 11 formation services.

12 “(b) *NATIONAL POLICY.*—In carrying out subsection
 13 (a), the Commission shall seek to promote the policies and
 14 purposes of this Act favoring diversity of media voices, vig-
 15 orous economic competition, technological advancement,
 16 and promotion of the public interest, convenience, and ne-
 17 cessity.

18 “(c) *PERIODIC REVIEW.*—Every 3 years following the
 19 completion of the proceeding required by subsection (a), the
 20 Commission shall review and report to Congress on—

21 “(1) any regulations prescribed to eliminate bar-
 22 riers within its jurisdiction that are identified under
 23 subsection (a) and that can be prescribed consistent
 24 with the public interest, convenience, and necessity;
 25 and

1 “(2) the statutory barriers identified under sub-
2 section (a) that the Commission recommends be elimi-
3 nated, consistent with the public interest, convenience,
4 and necessity.

5 **“SEC. 251. ILLEGAL CHANGES IN SUBSCRIBER CARRIER SE-**
6 **LECTIONS.**

7 “(a) *PROHIBITION*.—No common carrier shall submit
8 or execute a change in a subscriber’s selection of a provider
9 of telephone exchange service or telephone toll service except
10 in accordance with such verification procedures as the Com-
11 mission shall prescribe. Nothing in this section shall pre-
12 clude any State commission from enforcing such procedures
13 with respect to intrastate services.

14 “(b) *LIABILITY FOR CHARGES*.—Any common carrier
15 that violates the verification procedures described in sub-
16 section (a) and that collects charges for telephone exchange
17 service or telephone toll service from a subscriber shall be
18 liable to the carrier previously selected by the subscriber in
19 an amount equal to all charges paid by such subscriber after
20 such violation, in accordance with such procedures as the
21 Commission may prescribe. The remedies provided by this
22 subsection are in addition to any other remedies available
23 by law.

1 ***“SEC. 252. STUDY.***

2 *“Within 3 years after the date of enactment of this*
 3 *part, the Commission shall conduct a study that—*

4 *“(1) reviews the definition of, and the adequacy*
 5 *of support for, universal service, and evaluates the ex-*
 6 *tent to which universal service has been protected and*
 7 *access to advanced services has been facilitated pursu-*
 8 *ant to this part and the plans and regulations there-*
 9 *under;*

10 *“(2) evaluates the extent to which access to ad-*
 11 *vanced telecommunications services for students in el-*
 12 *ementary and secondary school classrooms has been*
 13 *attained pursuant to section 247(b)(5); and*

14 *“(3) determines whether the regulations estab-*
 15 *lished under section 249(c) have ensured that ad-*
 16 *vances in network services by providers of tele-*
 17 *communications services and information services are*
 18 *accessible and usable by individuals with disabil-*
 19 *ities.”.*

20 *(b) CONSOLIDATED RULEMAKING PROCEEDING.—The*
 21 *Commission shall conduct a single consolidated rulemaking*
 22 *proceeding to prescribe or amend regulations necessary to*
 23 *implement the requirements of—*

24 *(1) part II of title II of the Act as added by sub-*
 25 *section (a) of this section;*

1 (2) *section 222 as amended by section 104 of this*
 2 *Act; and*

3 (3) *section 224 as amended by section 105 of this*
 4 *Act.*

5 (c) *DESIGNATION OF PART I.—Title II of the Act is*
 6 *further amended by inserting before the heading of section*
 7 *201 the following new heading:*

8 ***“PART I—REGULATION OF DOMINANT COMMON***
 9 ***CARRIERS”.***

10 (d) *SYLISTIC CONSISTENCY.—The Act is amended so*
 11 *that—*

12 (1) *the designation and heading of each title of*
 13 *the Act shall be in the form and typeface of the des-*
 14 *ignation and heading of this title of this Act; and*

15 (2) *the designation and heading of each part of*
 16 *each title of the Act shall be in the form and typeface*
 17 *of the designation and heading of part I of title II*
 18 *of the Act, as amended by subsection (c).*

19 (e) *CONFORMING AMENDMENTS.—*

20 (1) *FEDERAL-STATE JURISDICTION.—Section*
 21 *2(b) of the Act (47 U.S.C. 152(b)) is amended by in-*
 22 *serting “part II of title II,” after “227, inclusive,”.*

23 (2) *FORFEITURES.—Sections 503(b)(1) and*
 24 *504(b) of such Act (47 U.S.C. 503(b)) are each*
 25 *amended by inserting “part I of” before “title II”.*

1 **SEC. 102. COMPETITION IN MANUFACTURING, INFORMA-**
 2 **TION SERVICES, ALARM SERVICES, AND PAY-**
 3 **PHONE SERVICES.**

4 (a) *COMPETITION IN MANUFACTURING, INFORMATION*
 5 *SERVICES, AND ALARM SERVICES.*—Title II of the Act is
 6 amended by adding at the end of part II (as added by sec-
 7 tion 101) the following new part:

8 **“PART III—SPECIAL AND TEMPORARY**
 9 **PROVISIONS**

10 **“SEC. 271. MANUFACTURING BY BELL OPERATING COMPA-**
 11 **NIES.**

12 “(a) *LIMITATIONS ON MANUFACTURING.*—

13 “(1) *ACCESS AND INTERCONNECTION RE-*
 14 *QUIRED.*—It shall be unlawful for a Bell operating
 15 company, directly or through an affiliate, to manu-
 16 facture telecommunications equipment or customer
 17 premises equipment, until the Commission has ap-
 18 proved under section 245(c) verifications that such
 19 Bell operating company, and each Bell operating
 20 company with which it is affiliated, are in compli-
 21 ance with the access and interconnection requirements
 22 of part II of this title.

23 “(2) *SEPARATE SUBSIDIARY REQUIRED.*—During
 24 the first 18 months after the expiration of the limita-
 25 tion contained in paragraph (1), a Bell operating
 26 company may engage in manufacturing telecommuni-

1 *cations equipment or customer premises equipment*
 2 *only through a separate subsidiary established and*
 3 *operated in accordance with section 246.*

4 “(b) *COLLABORATION; RESEARCH AND ROYALTY*
 5 *AGREEMENTS.—*

6 “(1) *COLLABORATION.—*Subsection (a) shall not
 7 *prohibit a Bell operating company from engaging in*
 8 *close collaboration with any manufacturer of cus-*
 9 *tomers premises equipment or telecommunications*
 10 *equipment during the design and development of*
 11 *hardware, software, or combinations thereof related to*
 12 *such equipment.*

13 “(2) *RESEARCH; ROYALTY AGREEMENTS.—*Sub-
 14 *section (a) shall not prohibit a Bell operating com-*
 15 *pany, directly or through an subsidiary, from—*

16 “(A) *engaging in any research activities re-*
 17 *lated to manufacturing, and*

18 “(B) *entering into royalty agreements with*
 19 *manufacturers of telecommunications equipment.*

20 “(c) *INFORMATION REQUIREMENTS.—*

21 “(1) *INFORMATION ON PROTOCOLS AND TECH-*
 22 *NICAL REQUIREMENTS.—*Each Bell operating com-
 23 *pany shall, in accordance with regulations prescribed*
 24 *by the Commission, maintain and file with the Com-*
 25 *mission full and complete information with respect to*

1 *the protocols and technical requirements for connec-*
2 *tion with and use of its telephone exchange service fa-*
3 *cilities. Each such company shall report promptly to*
4 *the Commission any material changes or planned*
5 *changes to such protocols and requirements, and the*
6 *schedule for implementation of such changes or*
7 *planned changes.*

8 “(2) *DISCLOSURE OF INFORMATION.*—A Bell op-
9 *erating company shall not disclose any information*
10 *required to be filed under paragraph (1) unless that*
11 *information has been filed promptly, as required by*
12 *regulation by the Commission.*

13 “(3) *ACCESS BY COMPETITORS TO INFORMA-*
14 *TION.*—The Commission may prescribe such addi-
15 *tional regulations under this subsection as may be*
16 *necessary to ensure that manufacturers have access to*
17 *the information with respect to the protocols and tech-*
18 *nical requirements for connection with and use of*
19 *telephone exchange service facilities that a Bell oper-*
20 *ating company makes available to any manufactur-*
21 *ing affiliate or any unaffiliated manufacturer.*

22 “(4) *PLANNING INFORMATION.*—Each Bell oper-
23 *ating company shall provide, to contiguous common*
24 *carriers providing telephone exchange service, timely*

1 *information on the planned deployment of tele-*
 2 *communications equipment.*

3 “(d) *MANUFACTURING LIMITATIONS FOR STANDARD-*
 4 *SETTING ORGANIZATIONS.—*

5 “(1) *APPLICATION TO BELL COMMUNICATIONS*
 6 *RESEARCH OR MANUFACTURERS.—Bell Communica-*
 7 *tions Research, Inc., or any successor entity or affili-*
 8 *ate—*

9 “(A) *shall not be considered a Bell operat-*
 10 *ing company or a successor or assign of a Bell*
 11 *operating company at such time as it is no*
 12 *longer an affiliate of any Bell operating com-*
 13 *pany; and*

14 “(B) *notwithstanding paragraph (3), shall*
 15 *not engage in manufacturing telecommuni-*
 16 *cations equipment or customer premises equip-*
 17 *ment as long as it is an affiliate of more than*
 18 *1 otherwise unaffiliated Bell operating company*
 19 *or successor or assign of any such company.*

20 *Nothing in this subsection prohibits Bell Communica-*
 21 *tions Research, Inc., or any successor entity, from en-*
 22 *gaging in any activity in which it is lawfully en-*
 23 *gaged on the date of enactment of this subsection.*
 24 *Nothing provided in this subsection shall render Bell*
 25 *Communications Research, Inc., or any successor en-*

1 *tity, a common carrier under title II of this Act.*
2 *Nothing in this section restricts any manufacturer*
3 *from engaging in any activity in which it is lawfully*
4 *engaged on the date of enactment of this section.*

5 “(2) *PROPRIETARY INFORMATION.*—Any entity
6 *which establishes standards for telecommunications*
7 *equipment or customer premises equipment, or ge-*
8 *neric network requirements for such equipment, or*
9 *certifies telecommunications equipment, or customer*
10 *premises equipment, shall be prohibited from releas-*
11 *ing or otherwise using any proprietary information,*
12 *designated as such by its owner, in its possession as*
13 *a result of such activity, for any purpose other than*
14 *purposes authorized in writing by the owner of such*
15 *information, even after such entity ceases to be so en-*
16 *gaged.*

17 “(3) *MANUFACTURING SAFEGUARDS.*—(A) *Ex-*
18 *cept as prohibited in paragraph (1), and subject to*
19 *paragraph (6), any entity which certifies tele-*
20 *communications equipment or customer premises*
21 *equipment manufactured by an unaffiliated entity*
22 *shall only manufacture a particular class of tele-*
23 *communications equipment or customer premises*
24 *equipment for which it is undertaking or has under-*
25 *taken, during the previous 18 months, certification*

1 *activity for such class of equipment through a sepa-*
2 *rate affiliate.*

3 “(B) Such separate affiliate shall—

4 “(i) maintain books, records, and accounts
5 *separate from those of the entity that certifies*
6 *such equipment, consistent with generally accept-*
7 *able accounting principles;*

8 “(ii) not engage in any joint manufactur-
9 *ing activities with such entity; and*

10 “(iii) have segregated facilities and separate
11 *employees with such entity.*

12 “(C) Such entity that certifies such equipment
13 *shall—*

14 “(i) not discriminate in favor of its manu-
15 *facturing affiliate in the establishment of stand-*
16 *ards, generic requirements, or product certifi-*
17 *cation;*

18 “(ii) not disclose to the manufacturing affil-
19 *iate any proprietary information that has been*
20 *received at any time from an unaffiliated manu-*
21 *facturer, unless authorized in writing by the*
22 *owner of the information; and*

23 “(iii) not permit any employee engaged in
24 *product certification for telecommunications*
25 *equipment or customer premises equipment to*

1 *engage jointly in sales or marketing of any such*
2 *equipment with the affiliated manufacturer.*

3 “(4) *STANDARD-SETTING ENTITIES.*—Any entity
4 *which is not an accredited standards development or-*
5 *ganization and which establishes industry-wide*
6 *standards for telecommunications equipment or cus-*
7 *tomers premises equipment, or industry-wide generic*
8 *network requirements for such equipment, or which*
9 *certifies telecommunications equipment or customer*
10 *premises equipment manufactured by an unaffiliated*
11 *entity, shall—*

12 “(A) *establish and publish any industry-*
13 *wide standard for, industry-wide generic require-*
14 *ment for, or any substantial modification of an*
15 *existing industry-wide standard or industry-*
16 *wide generic requirement for, telecommuni-*
17 *cations equipment or customer premises equip-*
18 *ment only in compliance with the following pro-*
19 *cedure:*

20 “(i) *such entity shall issue a public no-*
21 *tice of its consideration of a proposed in-*
22 *dustry-wide standard or industry-wide ge-*
23 *neric requirement;*

24 “(ii) *such entity shall issue a public*
25 *invitation to interested industry parties to*

1 *fund and participate in such efforts on a*
2 *reasonable and nondiscriminatory basis,*
3 *administered in such a manner as not to*
4 *unreasonably exclude any interested indus-*
5 *try party;*

6 “(iii) such entity shall publish a text
7 *for comment by such parties as have agreed*
8 *to participate in the process pursuant to*
9 *clause (ii), provide such parties a full op-*
10 *portunity to submit comments, and respond*
11 *to comments from such parties;*

12 “(iv) such entity shall publish a final
13 *text of the industry-wide standard or indus-*
14 *try-wide generic requirement, including the*
15 *comments in their entirety, of any funding*
16 *party which requests to have its comments*
17 *so published; and*

18 “(v) such entity shall attempt, prior to
19 *publishing a text for comment, to agree with*
20 *the funding parties as a group on a mutu-*
21 *ally satisfactory dispute resolution process*
22 *which such parties shall utilize as their sole*
23 *recourse in the event of a dispute on tech-*
24 *nical issues as to which there is disagree-*
25 *ment between any funding party and the*

1 entity conducting such activities, except
2 that if no dispute resolution process is
3 agreed to by all the parties, a funding party
4 may utilize the dispute resolution proce-
5 dures established pursuant to paragraph (5)
6 of this subsection;

7 “(B) engage in product certification for tele-
8 communications equipment or customer premises
9 equipment manufactured by unaffiliated entities
10 only if—

11 “(i) such activity is performed pursu-
12 ant to published criteria;

13 “(ii) such activity is performed pursu-
14 ant to auditable criteria; and

15 “(iii) such activity is performed pursu-
16 ant to available industry-accepted testing
17 methods and standards, where applicable,
18 unless otherwise agreed upon by the parties
19 funding and performing such activity;

20 “(C) not undertake any actions to monopo-
21 lize or attempt to monopolize the market for such
22 services; and

23 “(D) not preferentially treat its own tele-
24 communications equipment or customer premises
25 equipment, or that of its affiliate, over that of

1 *any other entity in establishing and publishing*
2 *industry-wide standards or industry-wide ge-*
3 *neric requirements for, and in certification of,*
4 *telecommunications equipment and customer*
5 *premises equipment.*

6 “(5) *ALTERNATE DISPUTE RESOLUTION.*—With-
7 *in 90 days after the date of enactment of this section,*
8 *the Commission shall prescribe a dispute resolution*
9 *process to be utilized in the event that a dispute reso-*
10 *lution process is not agreed upon by all the parties*
11 *when establishing and publishing any industry-wide*
12 *standard or industry-wide generic requirement for*
13 *telecommunications equipment or customer premises*
14 *equipment, pursuant to paragraph (4)(A)(v). The*
15 *Commission shall not establish itself as a party to the*
16 *dispute resolution process. Such dispute resolution*
17 *process shall permit any funding party to resolve a*
18 *dispute with the entity conducting the activity that*
19 *significantly affects such funding party’s interests, in*
20 *an open, nondiscriminatory, and unbiased fashion,*
21 *within 30 days after the filing of such dispute. Such*
22 *disputes may be filed within 15 days after the date*
23 *the funding party receives a response to its comments*
24 *from the entity conducting the activity. The Commis-*
25 *sion shall establish penalties to be assessed for delays*

1 *caused by referral of frivolous disputes to the dispute*
2 *resolution process. The overall intent of establishing*
3 *this dispute resolution provision is to enable all inter-*
4 *ested funding parties an equal opportunity to influ-*
5 *ence the final resolution of the dispute without sig-*
6 *nificantly impairing the efficiency, timeliness, and*
7 *technical quality of the activity.*

8 “(6) *SUNSET.*—*The requirements of paragraphs*
9 *(3) and (4) shall terminate for the particular relevant*
10 *activity when the Commission determines that there*
11 *are alternative sources of industry-wide standards,*
12 *industry-wide generic requirements, or product cer-*
13 *tification for a particular class of telecommunications*
14 *equipment or customer premises equipment available*
15 *in the United States. Alternative sources shall be*
16 *deemed to exist when such sources provide commer-*
17 *cially viable alternatives that are providing such serv-*
18 *ices to customers. The Commission shall act on any*
19 *application for such a determination within 90 days*
20 *after receipt of such application, and shall receive*
21 *public comment on such application.*

22 “(7) *ADMINISTRATION AND ENFORCEMENT AU-*
23 *THORITY.*—*For the purposes of administering this*
24 *subsection and the regulations prescribed thereunder,*
25 *the Commission shall have the same remedial author-*

1 *ity as the Commission has in administering and en-*
 2 *forcing the provisions of this title with respect to any*
 3 *common carrier subject to this Act.*

4 “(8) *DEFINITIONS.*—*For purposes of this sub-*
 5 *section:*

6 “(A) *The term ‘affiliate’ shall have the same*
 7 *meaning as in section 3 of this Act, except that,*
 8 *for purposes of paragraph (1)(B)—*

9 “(i) *an aggregate voting equity interest*
 10 *in Bell Communications Research, Inc., of*
 11 *at least 5 percent of its total voting equity,*
 12 *owned directly or indirectly by more than 1*
 13 *otherwise unaffiliated Bell operating com-*
 14 *pany, shall constitute an affiliate relation-*
 15 *ship; and*

16 “(ii) *a voting equity interest in Bell*
 17 *Communications Research, Inc., by any*
 18 *otherwise unaffiliated Bell operating com-*
 19 *pany of less than 1 percent of Bell Commu-*
 20 *nications Research’s total voting equity*
 21 *shall not be considered to be an equity in-*
 22 *terest under this paragraph.*

23 “(B) *The term ‘generic requirement’ means*
 24 *a description of acceptable product attributes for*
 25 *use by local exchange carriers in establishing*

1 *product specifications for the purchase of tele-*
 2 *communications equipment, customer premises*
 3 *equipment, and software integral thereto.*

4 “(C) The term ‘industry-wide’ means activi-
 5 *ties funded by or performed on behalf of local ex-*
 6 *change carriers for use in providing wireline*
 7 *local exchange service whose combined total of*
 8 *deployed access lines in the United States con-*
 9 *stitutes at least 30 percent of all access lines de-*
 10 *ployed by telecommunications carriers in the*
 11 *United States as of the date of enactment.*

12 “(D) The term ‘certification’ means any
 13 *technical process whereby a party determines*
 14 *whether a product, for use by more than one*
 15 *local exchange carrier, conforms with the speci-*
 16 *fied requirements pertaining to such product.*

17 “(E) The term ‘accredited standards devel-
 18 *opment organization’ means an entity composed*
 19 *of industry members which has been accredited*
 20 *by an institution vested with the responsibility*
 21 *for standards accreditation by the industry.*

22 “(e) BELL OPERATING COMPANY EQUIPMENT PRO-
 23 *CUREMENT AND SALES.—*

24 “(1) OBJECTIVE BASIS.—Each Bell operating
 25 *company and any entity acting on behalf of a Bell*

1 *operating company shall make procurement decisions*
2 *and award all supply contracts for equipment, serv-*
3 *ices, and software on the basis of an objective assess-*
4 *ment of price, quality, delivery, and other commercial*
5 *factors.*

6 “(2) *SALES RESTRICTIONS.*—A Bell operating
7 *company engaged in manufacturing may not restrict*
8 *sales to any local exchange carrier of telecommuni-*
9 *cations equipment, including software integral to the*
10 *operation of such equipment and related upgrades.*

11 “(3) *PROTECTION OF PROPRIETARY INFORMA-*
12 *TION.*—A Bell operating company and any entity it
13 *owns or otherwise controls shall protect the propri-*
14 *etary information submitted for procurement deci-*
15 *sions from release not specifically authorized by the*
16 *owner of such information.*

17 “(f) *ADMINISTRATION AND ENFORCEMENT AUTHOR-*
18 *ITY.*—For the purposes of administering and enforcing the
19 *provisions of this section and the regulations prescribed*
20 *thereunder, the Commission shall have the same authority,*
21 *power, and functions with respect to any Bell operating*
22 *company or any affiliate thereof as the Commission has in*
23 *administering and enforcing the provisions of this title with*
24 *respect to any common carrier subject to this Act.*

1 “(g) *EXCEPTION FOR PREVIOUSLY AUTHORIZED AC-*
 2 *TIVITIES.*—*Nothing in this section shall prohibit a Bell op-*
 3 *erating company or affiliate from engaging, at any time*
 4 *after the date of the enactment of this part, in any activity*
 5 *as authorized by an order entered by the United States Dis-*
 6 *trict Court for the District of Columbia pursuant to section*
 7 *VII or VIII(C) of the Modification of Final Judgment, if—*

8 “(1) *such order was entered on or before the date*
 9 *of the enactment of this part, or*

10 “(2) *a request for such authorization was pend-*
 11 *ing before such court on the date of the enactment of*
 12 *this part.*

13 “(h) *ANTITRUST LAWS.*—*Nothing in this section shall*
 14 *be construed to modify, impair, or supersede the applicabil-*
 15 *ity of any of the antitrust laws.*

16 “(i) *DEFINITION.*—*As used in this section, the term*
 17 *‘manufacturing’ has the same meaning as such term has*
 18 *under the Modification of Final Judgment.*

19 **“SEC. 272. ELECTRONIC PUBLISHING BY BELL OPERATING**
 20 **COMPANIES.**

21 “(a) *LIMITATIONS.*—*No Bell operating company or*
 22 *any affiliate may engage in the provision of electronic pub-*
 23 *lishing that is disseminated by means of such Bell operating*
 24 *company’s or any of its affiliates’ basic telephone service,*
 25 *except that nothing in this section shall prohibit a separated*

1 *affiliate or electronic publishing joint venture operated in*
 2 *accordance with this section from engaging in the provision*
 3 *of electronic publishing.*

4 “(b) *SEPARATED AFFILIATE OR ELECTRONIC PUB-*
 5 *LISHING JOINT VENTURE REQUIREMENTS.*—A *separated*
 6 *affiliate or electronic publishing joint venture shall be oper-*
 7 *ated independently from the Bell operating company. Such*
 8 *separated affiliate or joint venture and the Bell operating*
 9 *company with which it is affiliated shall—*

10 “(1) *maintain separate books, records, and ac-*
 11 *counts and prepare separate financial statements;*

12 “(2) *not incur debt in a manner that would per-*
 13 *mit a creditor of the separated affiliate or joint ven-*
 14 *ture upon default to have recourse to the assets of the*
 15 *Bell operating company;*

16 “(3) *carry out transactions (A) in a manner*
 17 *consistent with such independence, (B) pursuant to*
 18 *written contracts or tariffs that are filed with the*
 19 *Commission and made publicly available, and (C) in*
 20 *a manner that is auditable in accordance with gen-*
 21 *erally accepted auditing standards;*

22 “(4) *value any assets that are transferred di-*
 23 *rectly or indirectly from the Bell operating company*
 24 *to a separated affiliate or joint venture, and record*
 25 *any transactions by which such assets are transferred,*

1 *in accordance with such regulations as may be pre-*
2 *scribed by the Commission or a State commission to*
3 *prevent improper cross subsidies;*

4 “(5) *between a separated affiliate and a Bell op-*
5 *erating company—*

6 “(A) *have no officers, directors, and employ-*
7 *ees in common after the effective date of this sec-*
8 *tion; and*

9 “(B) *own no property in common;*

10 “(6) *not use for the marketing of any product or*
11 *service of the separated affiliate or joint venture, the*
12 *name, trademarks, or service marks of an existing*
13 *Bell operating company except for names, trade-*
14 *marks, or service marks that are or were used in com-*
15 *mon with the entity that owns or controls the Bell op-*
16 *erating company;*

17 “(7) *not permit the Bell operating company—*

18 “(A) *to perform hiring or training of per-*
19 *sonnel on behalf of a separated affiliate;*

20 “(B) *to perform the purchasing, installa-*
21 *tion, or maintenance of equipment on behalf of*
22 *a separated affiliate, except for telephone service*
23 *that it provides under tariff or contract subject*
24 *to the provisions of this section; or*

1 “(C) to perform research and development
2 on behalf of a separated affiliate;

3 “(8) each have performed annually a compliance
4 review—

5 “(A) that is conducted by an independent
6 entity for the purpose of determining compliance
7 during the preceding calendar year with any
8 provision of this section; and

9 “(B) the results of which are maintained by
10 the separated affiliate or joint venture and the
11 Bell operating company for a period of 5 years
12 subject to review by any lawful authority; and

13 “(9) within 90 days of receiving a review de-
14 scribed in paragraph (8), file a report of any excep-
15 tions and corrective action with the Commission and
16 allow any person to inspect and copy such report sub-
17 ject to reasonable safeguards to protect any propri-
18 etary information contained in such report from
19 being used for purposes other than to enforce or pur-
20 sue remedies under this section.

21 “(c) JOINT MARKETING.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2)—

24 “(A) a Bell operating company shall not
25 carry out any promotion, marketing, sales, or

1 *advertising for or in conjunction with a sepa-*
2 *rated affiliate; and*

3 “(B) *a Bell operating company shall not*
4 *carry out any promotion, marketing, sales, or*
5 *advertising for or in conjunction with an affili-*
6 *ate that is related to the provision of electronic*
7 *publishing.*

8 “(2) *PERMISSIBLE JOINT ACTIVITIES.—*

9 “(A) *JOINT TELEMARKETING.—A Bell oper-*
10 *ating company may provide inbound*
11 *telemarketing or referral services related to the*
12 *provision of electronic publishing for a separated*
13 *affiliate, electronic publishing joint venture, af-*
14 *iliate, or unaffiliated electronic publisher, pro-*
15 *vided that if such services are provided to a sep-*
16 *arated affiliate, electronic publishing joint ven-*
17 *ture, or affiliate, such services shall be made*
18 *available to all electronic publishers on request,*
19 *on nondiscriminatory terms.*

20 “(B) *TEAMING ARRANGEMENTS.—A Bell op-*
21 *erating company may engage in nondiscrim-*
22 *inatory teaming or business arrangements to en-*
23 *gage in electronic publishing with any separated*
24 *affiliate or with any other electronic publisher if*
25 *(i) the Bell operating company only provides fa-*

1 *cilities, services, and basic telephone service in-*
2 *formation as authorized by this section, and (ii)*
3 *the Bell operating company does not own such*
4 *teaming or business arrangement.*

5 *“(C) ELECTRONIC PUBLISHING JOINT VEN-*
6 *TURES.—A Bell operating company or affiliate*
7 *may participate on a nonexclusive basis in elec-*
8 *tronic publishing joint ventures with entities*
9 *that are not any Bell operating company, affili-*
10 *ate, or separated affiliate to provide electronic*
11 *publishing services, if the Bell operating com-*
12 *pany or affiliate has not more than a 50 percent*
13 *direct or indirect equity interest (or the equiva-*
14 *lent thereof) or the right to more than 50 percent*
15 *of the gross revenues under a revenue sharing or*
16 *royalty agreement in any electronic publishing*
17 *joint venture. Officers and employees of a Bell*
18 *operating company or affiliate participating in*
19 *an electronic publishing joint venture may not*
20 *have more than 50 percent of the voting control*
21 *over the electronic publishing joint venture. In*
22 *the case of joint ventures with small, local elec-*
23 *tronic publishers, the Commission for good cause*
24 *shown may authorize the Bell operating com-*
25 *pany or affiliate to have a larger equity interest,*

1 revenue share, or voting control but not to exceed
2 80 percent. A Bell operating company partici-
3 pating in an electronic publishing joint venture
4 may provide promotion, marketing, sales, or ad-
5 vertising personnel and services to such joint
6 venture.

7 “(d) *BELL OPERATING COMPANY REQUIREMENT.*—A
8 Bell operating company under common ownership or con-
9 trol with a separated affiliate or electronic publishing joint
10 venture shall provide network access and interconnections
11 for basic telephone service to electronic publishers at just
12 and reasonable rates that are tariffed (so long as rates for
13 such services are subject to regulation) and that are not
14 higher on a per-unit basis than those charged for such serv-
15 ices to any other electronic publisher or any separated affil-
16 iate engaged in electronic publishing.

17 “(e) *PRIVATE RIGHT OF ACTION.*—

18 “(1) *DAMAGES.*—Any person claiming that any
19 act or practice of any Bell operating company, affili-
20 ate, or separated affiliate constitutes a violation of
21 this section may file a complaint with the Commis-
22 sion or bring suit as provided in section 207 of this
23 Act, and such Bell operating company, affiliate, or
24 separated affiliate shall be liable as provided in sec-
25 tion 206 of this Act; except that damages may not

1 *be awarded for a violation that is discovered by a*
 2 *compliance review as required by subsection (b)(7) of*
 3 *this section and corrected within 90 days.*

4 “(2) *CEASE AND DESIST ORDERS.*—*In addition*
 5 *to the provisions of paragraph (1), any person claim-*
 6 *ing that any act or practice of any Bell operating*
 7 *company, affiliate, or separated affiliate constitutes a*
 8 *violation of this section may make application to the*
 9 *Commission for an order to cease and desist such vio-*
 10 *lation or may make application in any district court*
 11 *of the United States of competent jurisdiction for an*
 12 *order enjoining such acts or practices or for an order*
 13 *compelling compliance with such requirement.*

14 “(f) *SEPARATED AFFILIATE REPORTING REQUIRE-*
 15 *MENT.*—*Any separated affiliate under this section shall file*
 16 *with the Commission annual reports in a form substan-*
 17 *tially equivalent to the Form 10-K required by regulations*
 18 *of the Securities and Exchange Commission.*

19 “(g) *EFFECTIVE DATES.*—

20 “(1) *TRANSITION.*—*Any electronic publishing*
 21 *service being offered to the public by a Bell operating*
 22 *company or affiliate on the date of enactment of this*
 23 *section shall have one year from such date of enact-*
 24 *ment to comply with the requirements of this section.*

1 “(2) *SUNSET.*—*The provisions of this section*
 2 *shall not apply to conduct occurring after June 30,*
 3 *2000.*

4 “(h) *DEFINITION OF ELECTRONIC PUBLISHING.*—

5 “(1) *IN GENERAL.*—*The term ‘electronic publish-*
 6 *ing’ means the dissemination, provision, publication,*
 7 *or sale to an unaffiliated entity or person, of any one*
 8 *or more of the following: news (including sports); en-*
 9 *tertainment (other than interactive games); business,*
 10 *financial, legal, consumer, or credit materials; edi-*
 11 *torials, columns, or features; advertising; photos or*
 12 *images; archival or research material; legal notices or*
 13 *public records; scientific, educational, instructional,*
 14 *technical, professional, trade, or other literary mate-*
 15 *rials; or other like or similar information.*

16 “(2) *EXCEPTIONS.*—*The term ‘electronic publish-*
 17 *ing’ shall not include the following services:*

18 “(A) *Information access, as that term is de-*
 19 *finied by the Modification of Final Judgment.*

20 “(B) *The transmission of information as a*
 21 *common carrier.*

22 “(C) *The transmission of information as*
 23 *part of a gateway to an information service that*
 24 *does not involve the generation or alteration of*
 25 *the content of information, including data trans-*

1 *mission, address translation, protocol conversion,*
2 *billing management, introductory information*
3 *content, and navigational systems that enable*
4 *users to access electronic publishing services,*
5 *which do not affect the presentation of such elec-*
6 *tronic publishing services to users.*

7 “(D) Voice storage and retrieval services,
8 *including voice messaging and electronic mail*
9 *services.*

10 “(E) Data processing or transaction proc-
11 *essing services that do not involve the generation*
12 *or alteration of the content of information.*

13 “(F) Electronic billing or advertising of a
14 *Bell operating company’s regulated telecommuni-*
15 *cations services.*

16 “(G) Language translation or data format
17 *conversion.*

18 “(H) The provision of information nec-
19 *essary for the management, control, or operation*
20 *of a telephone company telecommunications sys-*
21 *tem.*

22 “(I) The provision of directory assistance
23 *that provides names, addresses, and telephone*
24 *numbers and does not include advertising.*

25 “(J) Caller identification services.

1 “(K) *Repair and provisioning databases*
 2 *and credit card and billing validation for tele-*
 3 *phone company operations.*

4 “(L) *911-E and other emergency assistance*
 5 *databases.*

6 “(M) *Any other network service of a type*
 7 *that is like or similar to these network services*
 8 *and that does not involve the generation or alter-*
 9 *ation of the content of information.*

10 “(N) *Any upgrades to these network services*
 11 *that do not involve the generation or alteration*
 12 *of the content of information.*

13 “(O) *Video programming or full motion*
 14 *video entertainment on demand.*

15 “(i) *ADDITIONAL DEFINITIONS.—As used in this sec-*
 16 *tion—*

17 “(1) *The term ‘affiliate’ means any entity that,*
 18 *directly or indirectly, owns or controls, is owned or*
 19 *controlled by, or is under common ownership or con-*
 20 *trol with, a Bell operating company. Such term shall*
 21 *not include a separated affiliate.*

22 “(2) *The term ‘basic telephone service’ means*
 23 *any wireline telephone exchange service, or wireline*
 24 *telephone exchange service facility, provided by a Bell*

1 *operating company in a telephone exchange area, ex-*
2 *cept that such term does not include—*

3 *“(A) a competitive wireline telephone ex-*
4 *change service provided in a telephone exchange*
5 *area where another entity provides a wireline*
6 *telephone exchange service that was provided on*
7 *January 1, 1984, and*

8 *“(B) a commercial mobile service.*

9 *“(3) The term ‘basic telephone service informa-*
10 *tion’ means network and customer information of a*
11 *Bell operating company and other information ac-*
12 *quired by a Bell operating company as a result of its*
13 *engaging in the provision of basic telephone service.*

14 *“(4) The term ‘control’ has the meaning that it*
15 *has in 17 C.F.R. 240.12b–2, the regulations promul-*
16 *gated by the Securities and Exchange Commission*
17 *pursuant to the Securities Exchange Act of 1934 (15*
18 *U.S.C. 78a et seq.) or any successor provision to such*
19 *section.*

20 *“(5) The term ‘electronic publishing joint ven-*
21 *ture’ means a joint venture owned by a Bell operating*
22 *company or affiliate that engages in the provision of*
23 *electronic publishing which is disseminated by means*
24 *of such Bell operating company’s or any of its affili-*
25 *ates’ basic telephone service.*

1 “(6) The term ‘entity’ means any organization,
2 and includes corporations, partnerships, sole propri-
3 etorships, associations, and joint ventures.

4 “(7) The term ‘inbound telemarketing’ means the
5 marketing of property, goods, or services by telephone
6 to a customer or potential customer who initiated the
7 call.

8 “(8) The term ‘own’ with respect to an entity
9 means to have a direct or indirect equity interest (or
10 the equivalent thereof) of more than 10 percent of an
11 entity, or the right to more than 10 percent of the
12 gross revenues of an entity under a revenue sharing
13 or royalty agreement.

14 “(9) The term ‘separated affiliate’ means a cor-
15 poration under common ownership or control with a
16 Bell operating company that does not own or control
17 a Bell operating company and is not owned or con-
18 trolled by a Bell operating company and that engages
19 in the provision of electronic publishing which is dis-
20 seminated by means of such Bell operating company’s
21 or any of its affiliates’ basic telephone service.

22 “(10) The term ‘Bell operating company’ has the
23 meaning provided in section 3, except that such term
24 includes any entity or corporation that is owned or
25 controlled by such a company (as so defined) but does

1 *not include an electronic publishing joint venture*
 2 *owned by such an entity or corporation.*

3 ***“SEC. 273. ALARM MONITORING AND TELEMESSAGING***
 4 ***SERVICES BY BELL OPERATING COMPANIES.***

5 *“(a) DELAYED ENTRY INTO ALARM MONITORING.—*

6 *“(1) PROHIBITION.—No Bell operating company*
 7 *or affiliate thereof shall engage in the provision of*
 8 *alarm monitoring services before the date which is 6*
 9 *years after the date of enactment of this part.*

10 *“(2) EXISTING ACTIVITIES.—Paragraph (1) shall*
 11 *not apply to any provision of alarm monitoring serv-*
 12 *ices in which a Bell operating company or affiliate*
 13 *is lawfully engaged as of January 1, 1995.*

14 *“(b) NONDISCRIMINATION.—A common carrier en-*
 15 *gaged in the provision of alarm monitoring services or*
 16 *telemessaging services shall—*

17 *“(1) provide nonaffiliated entities, upon reason-*
 18 *able request, with the network services it provides to*
 19 *its own alarm monitoring or telemessaging oper-*
 20 *ations, on nondiscriminatory terms and conditions;*
 21 *and*

22 *“(2) not subsidize its alarm monitoring services*
 23 *or its telemessaging services either directly or indi-*
 24 *rectly from telephone exchange service operations.*

1 “(c) *EXPEDITED CONSIDERATION OF COMPLAINTS.*—
 2 *The Commission shall establish procedures for the receipt*
 3 *and review of complaints concerning violations of sub-*
 4 *section (b) or the regulations thereunder that result in mate-*
 5 *rial financial harm to a provider of alarm monitoring serv-*
 6 *ice or telemessaging service. Such procedures shall ensure*
 7 *that the Commission will make a final determination with*
 8 *respect to any such complaint within 120 days after receipt*
 9 *of the complaint. If the complaint contains an appropriate*
 10 *showing that the alleged violation occurred, as determined*
 11 *by the Commission in accordance with such regulations, the*
 12 *Commission shall, within 60 days after receipt of the com-*
 13 *plaint, order the common carrier and its affiliates to cease*
 14 *engaging in such violation pending such final determina-*
 15 *tion.*

16 “(d) *DEFINITIONS.*—*As used in this section:*

17 “(1) *ALARM MONITORING SERVICE.*—*The term*
 18 *‘alarm monitoring service’ means a service that uses*
 19 *a device located at a residence, place of business, or*
 20 *other fixed premises—*

21 “(A) *to receive signals from other devices lo-*
 22 *cated at or about such premises regarding a pos-*
 23 *sible threat at such premises to life, safety, or*
 24 *property, from burglary, fire, vandalism, bodily*
 25 *injury, or other emergency, and*

1 “(B) to transmit a signal regarding such
 2 threat by means of transmission facilities of a
 3 Bell operating company or one of its affiliates to
 4 a remote monitoring center to alert a person at
 5 such center of the need to inform the customer or
 6 another person or police, fire, rescue, security, or
 7 public safety personnel of such threat,
 8 but does not include a service that uses a medical
 9 monitoring device attached to an individual for the
 10 automatic surveillance of an ongoing medical condi-
 11 tion.

12 “(2) *TELEMESSAGING SERVICES*.—The term
 13 ‘telemessaging services’ means voice mail and voice
 14 storage and retrieval services provided over telephone
 15 lines for telemessaging customers and any live opera-
 16 tor services used to answer, record, transcribe, and
 17 relay messages (other than telecommunications relay
 18 services) from incoming telephone calls on behalf of
 19 the telemessaging customers (other than any service
 20 incidental to directory assistance).

21 **“SEC. 274. PROVISION OF PAYPHONE SERVICE.**

22 “(a) *NONDISCRIMINATION SAFEGUARDS*.—After the ef-
 23 fective date of the rules prescribed pursuant to subsection
 24 (b), any Bell operating company that provides payphone
 25 service—

1 “(1) shall not subsidize its payphone service di-
 2 rectly or indirectly with revenue from its telephone
 3 exchange service or its exchange access service; and

4 “(2) shall not prefer or discriminate in favor of
 5 it payphone service.

6 “(b) REGULATIONS.—

7 “(1) CONTENTS OF REGULATIONS.—In order to
 8 promote competition among payphone service provid-
 9 ers and promote the widespread deployment of
 10 payphone services to the benefit of the general public,
 11 within 9 months after the date of enactment of this
 12 section, the Commission shall take all actions nec-
 13 essary (including any reconsideration) to prescribe
 14 regulations that—

15 “(A) establish a per call compensation plan
 16 to ensure that all payphone services providers
 17 are fairly compensated for each and every com-
 18 pleted intrastate and interstate call using their
 19 payphone, except that emergency calls and tele-
 20 communications relay service calls for hearing
 21 disabled individuals shall not be subject to such
 22 compensation;

23 “(B) discontinue the intrastate and inter-
 24 state carrier access charge payphone service ele-
 25 ments and payments in effect on the date of en-

1 *actment of this section, and all intrastate and*
2 *interstate payphone subsidies from basic ex-*
3 *change and exchange access revenues, in favor of*
4 *a compensation plan as specified in subpara-*
5 *graph (A);*

6 *“(C) prescribe a set of nonstructural safe-*
7 *guards for Bell operating company payphone*
8 *service to implement the provisions of para-*
9 *graphs (1) and (2) of subsection (a), which safe-*
10 *guards shall, at a minimum, include the non-*
11 *structural safeguards equal to those adopted in*
12 *the Computer Inquiry-III CC Docket No. 90-623*
13 *proceeding; and*

14 *“(D) provide for Bell operating company*
15 *payphone service providers to have the same*
16 *right that independent payphone providers have*
17 *to negotiate with the location provider on select-*
18 *ing and contracting with, and, subject to the*
19 *terms of any agreement with the location pro-*
20 *vider, to select and contract with the carriers*
21 *that carry interLATA calls from their*
22 *payphones, and provide for all payphone service*
23 *providers to have the right to negotiate with the*
24 *location provider on selecting and contracting*
25 *with, and, subject to the terms of any agreement*

1 with the location provider, to select and contract
2 with the carriers that carry intraLATA calls
3 from their payphones.

4 “(2) *PUBLIC INTEREST TELEPHONES.*—In the
5 rulemaking conducted pursuant to paragraph (1), the
6 Commission shall determine whether public interest
7 payphones, which are provided in the interest of pub-
8 lic health, safety, and welfare, in locations where
9 there would otherwise not be a payphone, should be
10 maintained, and if so, ensure that such public inter-
11 est payphones are supported fairly and equitably.

12 “(3) *EXISTING CONTRACTS.*—Nothing in this sec-
13 tion shall affect any existing contracts between loca-
14 tion providers and payphone service providers or
15 interLATA or intraLATA carriers that are in force
16 and effect as of the date of the enactment of this Act.

17 “(c) *STATE PREEMPTION.*—To the extent that any
18 State requirements are inconsistent with the Commission’s
19 regulations, the Commission’s regulations on such matters
20 shall preempt State requirements.

21 “(d) *DEFINITION.*—As used in this section, the term
22 ‘payphone service’ means the provision of public or semi-
23 public pay telephones, the provision of inmate telephone
24 service in correctional institutions, and any ancillary serv-
25 ices.”.

1 **SEC. 103. FORBEARANCE FROM REGULATION.**

2 *Part I of title II of the Act (as redesignated by section*
 3 *101(c) of this Act) is amended by inserting after section*
 4 *229 (47 U.S.C. 229) the following new section:*

5 **“SEC. 230. FORBEARANCE FROM REGULATION.**

6 *“(a) AUTHORITY TO FORBEAR.—The Commission*
 7 *shall forbear from applying any provision of this part or*
 8 *part II (other than sections 201, 202, 208, 243, and 248),*
 9 *or any regulation of the Commission thereunder, to a com-*
 10 *mon carrier or service, or class of carriers or services, in*
 11 *any or some of its or their geographic markets, unless the*
 12 *Commission determines that—*

13 *“(1) enforcement of such provision or regulation*
 14 *is necessary to ensure that the charges, practices, clas-*
 15 *sifications, or regulations by, for, or in connection*
 16 *with that carrier or service are just and reasonable*
 17 *and are not unjustly or unreasonably discriminatory;*

18 *“(2) enforcement of such regulation or provision*
 19 *is not necessary for the protection of consumers; or*

20 *“(3) forbearance from applying such provision or*
 21 *regulation is inconsistent with the public interest.*

22 *“(b) COMPETITIVE EFFECT TO BE WEIGHED.—In*
 23 *making the determination under subsection (a)(3), the Com-*
 24 *mission shall consider whether forbearance from enforcing*
 25 *the provision or regulation will promote competitive market*
 26 *conditions, including the extent to which such forbearance*

1 *will enhance competition among providers of telecommuni-*
 2 *cations services. If the Commission determines that such*
 3 *forbearance will promote competition among providers of*
 4 *telecommunications services, that determination may be the*
 5 *basis for a Commission finding that forbearance is in the*
 6 *public interest.*

7 “(c) *COMMERCIAL MOBILE SERVICE JOINT MARKET-*
 8 *ING.—Notwithstanding section 22.903 of the Commission’s*
 9 *regulations (47 C.F.R. 22.903) or any other Commission*
 10 *regulation, or any judicial decree or proposed judicial de-*
 11 *cree, a Bell operating company or any other company may,*
 12 *except as provided in sections 242(d) and 246 as they relate*
 13 *to wireline service, jointly market and sell commercial mo-*
 14 *bile services in conjunction with telephone exchange service,*
 15 *exchange access, intraLATA telecommunications service,*
 16 *interLATA telecommunications service, and information*
 17 *services.”.*

18 **SEC. 104. ONLINE FAMILY EMPOWERMENT.**

19 *Title II of the Communications Act of 1934 (47 U.S.C.*
 20 *201 et seq.) is amended by adding at the end the following*
 21 *new section:*

1 **“SEC. 230. PROTECTION FOR PRIVATE BLOCKING AND**
 2 **SCREENING OF OFFENSIVE MATERIAL; FCC**
 3 **REGULATION OF COMPUTER SERVICES PRO-**
 4 **HIBITED.**

5 “(a) *FINDINGS.*—The Congress finds the following:

6 “(1) *The rapidly developing array of Internet*
 7 *and other interactive computer services available to*
 8 *individual Americans represent an extraordinary ad-*
 9 *vance in the availability of educational and informa-*
 10 *tional resources to our citizens.*

11 “(2) *These services offer users a great degree of*
 12 *control over the information that they receive, as well*
 13 *as the potential for even greater control in the future*
 14 *as technology develops.*

15 “(3) *The Internet and other interactive computer*
 16 *services offer a forum for a true diversity of political*
 17 *discourse, unique opportunities for cultural develop-*
 18 *ment, and myriad avenues for intellectual activity.*

19 “(4) *The Internet and other interactive computer*
 20 *services have flourished, to the benefit of all Ameri-*
 21 *cans, with a minimum of government regulation.*

22 “(5) *Increasingly Americans are relying on*
 23 *interactive media for a variety of political, edu-*
 24 *cational, cultural, and entertainment services.*

25 “(b) *POLICY.*—It is the policy of the United States
 26 *to—*

1 “(1) promote the continued development of the
2 Internet and other interactive computer services and
3 other interactive media;

4 “(2) preserve the vibrant and competitive free
5 market that presently exists for the Internet and other
6 interactive computer services, unfettered by State or
7 Federal regulation;

8 “(3) encourage the development of technologies
9 which maximize user control over the information re-
10 ceived by individuals, families, and schools who use
11 the Internet and other interactive computer services;

12 “(4) remove disincentives for the development
13 and utilization of blocking and filtering technologies
14 that empower parents to restrict their children’s ac-
15 cess to objectionable or inappropriate online material;
16 and

17 “(5) ensure vigorous enforcement of criminal
18 laws to deter and punish trafficking in obscenity,
19 stalking, and harassment by means of computer.

20 “(c) PROTECTION FOR ‘GOOD SAMARITAN’ BLOCKING
21 AND SCREENING OF OFFENSIVE MATERIAL.—No provider
22 or user of interactive computer services shall be treated as
23 the publisher or speaker of any information provided by
24 an information content provider. No provider or user of

1 *interactive computer services shall be held liable on account*
 2 *of—*

3 “(1) *any action voluntarily taken in good faith*
 4 *to restrict access to material that the provider or user*
 5 *considers to be obscene, lewd, lascivious, filthy, exces-*
 6 *sively violent, harassing, or otherwise objectionable,*
 7 *whether or not such material is constitutionally pro-*
 8 *tected; or*

9 “(2) *any action taken to make available to infor-*
 10 *mation content providers or others the technical*
 11 *means to restrict access to material described in para-*
 12 *graph (1).*

13 “(d) *FCC REGULATION OF THE INTERNET AND OTHER*
 14 *INTERACTIVE COMPUTER SERVICES PROHIBITED.—Noth-*
 15 *ing in this Act shall be construed to grant any jurisdiction*
 16 *or authority to the Commission with respect to content or*
 17 *any other regulation of the Internet or other interactive*
 18 *computer services.*

19 “(e) *EFFECT ON OTHER LAWS.—*

20 “(1) *NO EFFECT ON CRIMINAL LAW.—Nothing in*
 21 *this section shall be construed to impair the enforce-*
 22 *ment of section 223 of this Act, chapter 71 (relating*
 23 *to obscenity) or 110 (relating to sexual exploitation of*
 24 *children) of title 18, United States Code, or any other*
 25 *Federal criminal statute.*

1 “(2) *NO EFFECT ON INTELLECTUAL PROPERTY*
 2 *LAW.—Nothing in this section shall be construed to*
 3 *limit or expand any law pertaining to intellectual*
 4 *property.*

5 “(3) *IN GENERAL.—Nothing in this section shall*
 6 *be construed to prevent any State from enforcing any*
 7 *State law that is consistent with this section.*

8 “(f) *DEFINITIONS.—As used in this section:*

9 “(1) *INTERNET.—The term ‘Internet’ means the*
 10 *international computer network of both Federal and*
 11 *non-Federal interoperable packet switched data net-*
 12 *works.*

13 “(2) *INTERACTIVE COMPUTER SERVICE.—The*
 14 *term ‘interactive computer service’ means any infor-*
 15 *mation service that provides computer access to mul-*
 16 *tiple users via modem to a remote computer server,*
 17 *including specifically a service that provides access to*
 18 *the Internet.*

19 “(3) *INFORMATION CONTENT PROVIDER.—The*
 20 *term ‘information content provider’ means any per-*
 21 *son or entity that is responsible, in whole or in part,*
 22 *for the creation or development of information pro-*
 23 *vided by the Internet or any other interactive com-*
 24 *puter service, including any person or entity that cre-*
 25 *ates or develops blocking or screening software or*

12 SEC. 105. PRIVACY OF CUSTOMER INFORMATION.

16 ***“SEC. 222. PRIVACY OF CUSTOMER PROPRIETARY NETWORK***
17 ***INFORMATION.***

18 “(a) *SUBSCRIBER LIST INFORMATION.*—Notwith-
19 *standing subsections (b), (c), and (d), a carrier that pro-*
20 *vides local exchange service shall provide subscriber list in-*
21 *formation gathered in its capacity as a provider of such*
22 *service on a timely and unbundled basis, under nondiscrim-*
23 *inatory and reasonable rates, terms, and conditions, to any*
24 *person upon request for the purpose of publishing direc-*
25 *tories in any format.*

1 “(b) *PRIVACY REQUIREMENTS FOR COMMON CAR-*
2 *RIERS.*—A carrier—

3 “(1) *shall not, except as required by law or with*
4 *the approval of the customer to which the information*
5 *relates—*

6 “(A) *use customer proprietary network in-*
7 *formation in the provision of any service except*
8 *to the extent necessary (i) in the provision of*
9 *common carrier services, (ii) in the provision of*
10 *a service necessary to or used in the provision of*
11 *common carrier services, including the publish-*
12 *ing of directories, or (iii) to continue to provide*
13 *a particular information service that the carrier*
14 *provided as of May 1, 1995, to persons who were*
15 *customers of such service on that date;*

16 “(B) *use customer proprietary network in-*
17 *formation in the identification or solicitation of*
18 *potential customers for any service other than*
19 *the telephone exchange service or telephone toll*
20 *service from which such information is derived;*

21 “(C) *use customer proprietary network in-*
22 *formation in the provision of customer premises*
23 *equipment; or*

24 “(D) *disclose customer proprietary network*
25 *information to any person except to the extent*

1 *necessary to permit such person to provide serv-*
 2 *ices or products that are used in and necessary*
 3 *to the provision by such carrier of the services*
 4 *described in subparagraph (A);*

5 “(2) shall disclose customer proprietary network
 6 information, upon affirmative written request by the
 7 customer, to any person designated by the customer;

8 “(3) shall, whenever such carrier provides any
 9 aggregate information, notify the Commission of the
 10 availability of such aggregate information and shall
 11 provide such aggregate information on reasonable
 12 terms and conditions to any other service or equip-
 13 ment provider upon reasonable request therefor; and

14 “(4) except for disclosures permitted by para-
 15 graph (1)(D), shall not unreasonably discriminate be-
 16 tween affiliated and unaffiliated service or equipment
 17 providers in providing access to, or in the use and
 18 disclosure of, individual and aggregate information
 19 made available consistent with this subsection.

20 “(c) *RULE OF CONSTRUCTION.*—This section shall not
 21 be construed to prohibit the use or disclosure of customer
 22 proprietary network information as necessary—

23 “(1) to render, bill, and collect for the services
 24 identified in subsection (b)(1)(A);

1 “(2) to render, bill, and collect for any other
2 service that the customer has requested;

3 “(3) to protect the rights or property of the car-
4 rier;

5 “(4) to protect users of any of those services and
6 other carriers from fraudulent, abusive, or unlawful
7 use of or subscription to such service; or

8 “(5) to provide any inbound telemarketing, refer-
9 ral, or administrative services to the customer for the
10 duration of the call if such call was initiated by the
11 customer and the customer approves of the use of such
12 information to provide such service.

13 “(d) *EXEMPTION PERMITTED.*—The Commission may,
14 by rule, exempt from the requirements of subsection (b) car-
15 riers that have, together with any affiliated carriers, in the
16 aggregate nationwide, fewer than 500,000 access lines in-
17 stalled if the Commission determines that such exemption
18 is in the public interest or if compliance with the require-
19 ments would impose an undue economic burden on the car-
20 rier.

21 “(e) *DEFINITIONS.*—As used in this section:

22 “(1) *CUSTOMER PROPRIETARY NETWORK INFOR-*
23 *MATION.*—The term ‘customer proprietary network
24 information’ means—

1 “(A) information which relates to the quan-
 2 tity, technical configuration, type, destination,
 3 and amount of use of telephone exchange service
 4 or telephone toll service subscribed to by any cus-
 5 tomer of a carrier, and is made available to the
 6 carrier by the customer solely by virtue of the
 7 carrier-customer relationship;

8 “(B) information contained in the bills per-
 9 taining to telephone exchange service or telephone
 10 toll service received by a customer of a carrier;
 11 and

12 “(C) such other information concerning the
 13 customer as is available to the local exchange
 14 carrier by virtue of the customer’s use of the car-
 15 rier’s telephone exchange service or telephone toll
 16 services, and specified as within the definition of
 17 such term by such rules as the Commission shall
 18 prescribe consistent with the public interest;
 19 except that such term does not include subscriber list
 20 information.

21 “(2) SUBSCRIBER LIST INFORMATION.—The term
 22 ‘subscriber list information’ means any informa-
 23 tion—

24 “(A) identifying the listed names of sub-
 25 scribers of a carrier and such subscribers’ tele-

1 *phone numbers, addresses, or primary advertis-*
 2 *ing classifications (as such classifications are as-*
 3 *signed at the time of the establishment of such*
 4 *service), or any combination of such listed*
 5 *names, numbers, addresses, or classifications;*
 6 *and*

7 *“(B) that the carrier or an affiliate has*
 8 *published, caused to be published, or accepted for*
 9 *publication in any directory format.*

10 *“(3) AGGREGATE INFORMATION.—The term ‘ag-*
 11 *gregate information’ means collective data that relates*
 12 *to a group or category of services or customers, from*
 13 *which individual customer identities and characteris-*
 14 *tics have been removed.”.*

15 *(b) CONVERGING COMMUNICATIONS TECHNOLOGIES*
 16 *AND CONSUMER PRIVACY.—*

17 *(1) COMMISSION EXAMINATION.—Within one*
 18 *year after the date of enactment of this Act, the Com-*
 19 *mission shall commence a proceeding—*

20 *(A) to examine the impact of the integra-*
 21 *tion into interconnected communications net-*
 22 *works of wireless telephone, cable, satellite, and*
 23 *other technologies on the privacy rights and rem-*
 24 *edies of the consumers of those technologies;*

1 (B) to examine the impact that the
2 globalization of such integrated communications
3 networks has on the international dissemination
4 of consumer information and the privacy rights
5 and remedies to protect consumers;

6 (C) to propose changes in the Commission's
7 regulations to ensure that the effect on consumer
8 privacy rights is considered in the introduction
9 of new telecommunications services and that the
10 protection of such privacy rights is incorporated
11 as necessary in the design of such services or the
12 rules regulating such services;

13 (D) to propose changes in the Commission's
14 regulations as necessary to correct any defects
15 identified pursuant to subparagraph (A) in such
16 rights and remedies; and

17 (E) to prepare recommendations to the Con-
18 gress for any legislative changes required to cor-
19 rect such defects.

20 (2) *SUBJECTS FOR EXAMINATION.*—In conduct-
21 ing the examination required by paragraph (1), the
22 Commission shall determine whether consumers are
23 able, and, if not, the methods by which consumers
24 may be enabled—

1 (A) to have knowledge that consumer infor-
 2 mation is being collected about them through
 3 their utilization of various communications tech-
 4 nologies;

5 (B) to have notice that such information
 6 could be used, or is intended to be used, by the
 7 entity collecting the data for reasons unrelated to
 8 the original communications, or that such infor-
 9 mation could be sold (or is intended to be sold)
 10 to other companies or entities; and

11 (C) to stop the reuse or sale of that informa-
 12 tion.

13 (3) *SCHEDULE FOR COMMISSION RESPONSES.*—
 14 The Commission shall, within 18 months after the
 15 date of enactment of this Act—

16 (A) complete any rulemaking required to re-
 17 vise Commission regulations to correct defects in
 18 such regulations identified pursuant to para-
 19 graph (1); and

20 (B) submit to the Congress a report con-
 21 taining the recommendations required by para-
 22 graph (1)(C).

23 **SEC. 106. POLE ATTACHMENTS.**

24 Section 224 of the Act (47 U.S.C. 224) is amended—

25 (1) in subsection (a)(4)—

1 (A) by inserting after “system” the follow-
 2 ing: “or a provider of telecommunications serv-
 3 ice”; and

4 (B) by inserting after “utility” the follow-
 5 ing: “, which attachment may be used by such
 6 entities to provide cable service or any tele-
 7 communications service”;

8 (2) in subsection (c)(2)(B), by striking “cable tel-
 9 evision services” and inserting “the services offered
 10 via such attachments”;

11 (3) by redesignating subsection (d)(2) as sub-
 12 section (d)(4); and

13 (4) by striking subsection (d)(1) and inserting
 14 the following:

15 “(d)(1) For purposes of subsection (b) of this section,
 16 the Commission shall, no later than 1 year after the date
 17 of enactment of the Communications Act of 1995, prescribe
 18 regulations for ensuring that, when the parties fail to nego-
 19 tiate a mutually agreeable rate, utilities charge just and
 20 reasonable and nondiscriminatory rates for pole attach-
 21 ments provided to all providers of telecommunications serv-
 22 ices, including such attachments used by cable television
 23 systems to provide telecommunications services (as defined
 24 in section 3 of this Act). Such regulations shall—

1 “(A) recognize that the entire pole, duct, conduit,
2 or right-of-way other than the usable space is of equal
3 benefit to all entities attaching to the pole and there-
4 fore apportion the cost of the space other than the us-
5 able space equally among all such attaching entities;

6 “(B) recognize that the usable space is of propor-
7 tional benefit to all entities attaching to the pole,
8 duct, conduit or right-of-way and therefore apportion
9 the cost of the usable space according to the percent-
10 age of usable space required for each entity;

11 “(C) recognize that the pole, duct, conduit, or
12 right-of-way has a value that exceeds costs and that
13 value shall be reflected in any rate; and

14 “(D) allow for reasonable terms and conditions
15 relating to health, safety, and the provision of reliable
16 utility service.

17 “(2) The final regulations prescribed by the Commis-
18 sion pursuant to paragraph (1) shall not apply to a cable
19 television system that solely provides cable service as defined
20 in section 602(6) of this Act; instead, the pole attachment
21 rate for such systems shall assure a utility the recovery of
22 not less than the additional costs of providing pole attach-
23 ments, nor more than an amount determined by multiply-
24 ing the percentage of the total usable space, or the percent-
25 age of the total duct or conduit capacity, which is occupied

1 *by the pole attachment by the sum of the operating expenses*
 2 *and actual capital costs of the utility attributable to the*
 3 *entire pole, duct, conduit, or right-of-way.*

4 “(3) *Whenever the owner of a conduit or right-of-way*
 5 *intends to modify or alter such conduit or right-of-way, the*
 6 *owner shall provide written notification of such action to*
 7 *any entity that has obtained an attachment to such conduit*
 8 *or right-of-way so that such entity may have a reasonable*
 9 *opportunity to add to or modify its existing attachment.*
 10 *Any entity that adds to or modifies its existing attachment*
 11 *after receiving such notification shall bear a proportionate*
 12 *share of the costs incurred by the owner in making such*
 13 *conduit or right-of-way accessible.”.*

14 **SEC. 107. PREEMPTION OF FRANCHISING AUTHORITY REG-**
 15 **ULATION OF TELECOMMUNICATIONS SERV-**
 16 **ICES.**

17 (a) *TELECOMMUNICATIONS SERVICES.*—Section 621(b)
 18 *of the Act (47 U.S.C. 541(c)) is amended by adding at the*
 19 *end thereof the following new paragraph:*

20 “(3)(A) *To the extent that a cable operator or affiliate*
 21 *thereof is engaged in the provision of telecommunications*
 22 *services—*

23 “(i) *such cable operator or affiliate shall not be*
 24 *required to obtain a franchise under this title; and*

1 “(ii) the provisions of this title shall not apply
2 to such cable operator or affiliate.

3 “(B) A franchising authority may not impose any re-
4 quirement that has the purpose or effect of prohibiting, lim-
5 iting, restricting, or conditioning the provision of a tele-
6 communications service by a cable operator or an affiliate
7 thereof.

8 “(C) A franchising authority may not order a cable
9 operator or affiliate thereof—

10 “(i) to discontinue the provision of a tele-
11 communications service, or

12 “(ii) to discontinue the operation of a cable sys-
13 tem, to the extent such cable system is used for the
14 provision of a telecommunications service, by reason
15 of the failure of such cable operator or affiliate thereof
16 to obtain a franchise or franchise renewal under this
17 title with respect to the provision of such tele-
18 communications service.

19 “(D) Except as otherwise permitted by sections 611
20 and 612, a franchising authority may not require a cable
21 operator to provide any telecommunications service or fa-
22 cilities, other than intragovernmental telecommunications
23 services, as a condition of the initial grant of a franchise
24 or a franchise renewal.”.

1 (b) *FRANCHISE FEES.*—Section 622(b) of the Act (47
 2 U.S.C. 542(b)) is amended by inserting “to provide cable
 3 services” immediately before the period at the end of the
 4 first sentence thereof.

5 **SEC. 108. FACILITIES SITING; RADIO FREQUENCY EMISSION**
 6 **STANDARDS.**

7 (a) *NATIONAL WIRELESS TELECOMMUNICATIONS*
 8 *SITING POLICY.*—Section 332(c) of the Act (47 U.S.C.
 9 332(c)) is amended by adding at the end the following new
 10 paragraph:

11 “(7) *FACILITIES SITING POLICIES.*—(A) Within
 12 180 days after enactment of this paragraph, the Com-
 13 mission shall prescribe and make effective a policy to
 14 reconcile State and local regulation of the siting of fa-
 15 cilities for the provision of commercial mobile services
 16 or unlicensed services with the public interest in fos-
 17 tering competition through the rapid, efficient, and
 18 nationwide deployment of commercial mobile services
 19 or unlicensed services.

20 “(B) Pursuant to subchapter III of chapter 5,
 21 title 5, United States Code, the Commission shall es-
 22 tablish a negotiated rulemaking committee to nego-
 23 tiate and develop a proposed policy to comply with
 24 the requirements of this paragraph. Such committee
 25 shall include representatives from State and local gov-

1 *ernments, affected industries, and public safety agen-*
2 *cies.*

3 *“(C) The policy prescribed pursuant to this sub-*
4 *paragraph shall take into account—*

5 *“(i) the need to enhance the coverage and*
6 *quality of commercial mobile services and unli-*
7 *censed services and foster competition in the pro-*
8 *vision of commercial mobile services and unli-*
9 *censed services on a timely basis;*

10 *“(ii) the legitimate interests of State and*
11 *local governments in matters of exclusively local*
12 *concern, and the need to provide State and local*
13 *government with maximum flexibility to address*
14 *such local concerns, while ensuring that such in-*
15 *terests do not prohibit or have the effect of pre-*
16 *cluding any commercial mobile service or unli-*
17 *censed service;*

18 *“(iii) the effect of State and local regulation*
19 *of facilities siting on interstate commerce;*

20 *“(iv) the administrative costs to State and*
21 *local governments of reviewing requests for au-*
22 *thorization to locate facilities for the provision of*
23 *commercial mobile services or unlicensed serv-*
24 *ices; and*

1 “(v) the need to provide due process in mak-
2 ing any decision by a State or local government
3 or instrumentality thereof to grant or deny a re-
4 quest for authorization to locate, construct, mod-
5 ify, or operate facilities for the provision of com-
6 mercial mobile services or unlicensed services.

7 “(D) The policy prescribed pursuant to this
8 paragraph shall provide that no State or local govern-
9 ment or any instrumentality thereof may regulate the
10 placement, construction, modification, or operation of
11 such facilities on the basis of the environmental effects
12 of radio frequency emissions, to the extent that such
13 facilities comply with the Commission’s regulations
14 concerning such emissions.

15 “(E) The proceeding to prescribe such policy
16 pursuant to this paragraph shall supercede any pro-
17 ceeding pending on the date of enactment of this
18 paragraph relating to preemption of State and local
19 regulation of tower siting for commercial mobile serv-
20 ices, unlicensed services, and providers thereof. In ac-
21 cordance with subchapter III of chapter 5, title 5,
22 United States Code, the Commission shall periodi-
23 cally establish a negotiated rulemaking committee to
24 review the policy prescribed by the Commission under

1 *this paragraph and to recommend revisions to such*
2 *policy.*

3 “(F) For purposes of this paragraph, the term
4 ‘unlicensed service’ means the offering of tele-
5 communications using duly authorized devices which
6 do not require individual licenses.”.

7 (b) RADIO FREQUENCY EMISSIONS.—Within 180 days
8 after the enactment of this Act, the Commission shall com-
9 plete action in ET Docket 93–62 to prescribe and make ef-
10 fective rules regarding the environmental effects of radio fre-
11 quency emissions.

12 (c) AVAILABILITY OF PROPERTY.—Within 180 days of
13 the enactment of this Act, the Commission shall prescribe
14 procedures by which Federal departments and agencies may
15 make available on a fair, reasonable, and nondiscrim-
16 inatory basis, property, rights-of-way, and easements under
17 their control for the placement of new telecommunications
18 facilities by duly licensed providers of telecommunications
19 services that are dependent, in whole or in part, upon the
20 utilization of Federal spectrum rights for the transmission
21 or reception of such services. These procedures may establish
22 a presumption that requests for the use of property, rights-
23 of-way, and easements by duly authorized providers should
24 be granted absent unavoidable direct conflict with the de-
25 partment or agency’s mission, or the current or planned

1 *use of the property, rights-of-way, and easements in ques-*
 2 *tion. Reasonable fees may be charged to providers of such*
 3 *telecommunications services for use of property, rights-of-*
 4 *way, and easements. The Commission shall provide tech-*
 5 *nical support to States to encourage them to make property,*
 6 *rights-of-way, and easements under their jurisdiction avail-*
 7 *able for such purposes.*

8 **SEC. 109. MOBILE SERVICE ACCESS TO LONG DISTANCE**
 9 **CARRIERS.**

10 (a) *AMENDMENT.—Section 332(c) of the Act (47*
 11 *U.S.C. 332(c)) is amended by adding at the end the follow-*
 12 *ing new paragraph:*

13 “(8) *MOBILE SERVICES ACCESS.—(A) The Com-*
 14 *mission shall prescribe regulations to afford subscrib-*
 15 *ers of two-way switched voice commercial mobile*
 16 *radio services access to a provider of telephone toll*
 17 *service of the subscriber’s choice, except to the extent*
 18 *that the commercial mobile radio service is provided*
 19 *by satellite. The Commission may exempt carriers or*
 20 *classes of carriers from the requirements of such regu-*
 21 *lations to the extent the Commission determines such*
 22 *exemption is consistent with the public interest, con-*
 23 *venience, and necessity. For purposes of this para-*
 24 *graph, ‘access’ shall mean access to a provider of tele-*

1 *phone toll service through the use of carrier identifica-*
 2 *tion codes assigned to each such provider.*

3 *“(B) The regulations prescribed by the Commis-*
 4 *sion pursuant to subparagraph (A) shall supersede*
 5 *any inconsistent requirements imposed by the Modi-*
 6 *fication of Final Judgment or any order in United*
 7 *States v. AT&T Corp. and McCaw Cellular Commu-*
 8 *nications, Inc., Civil Action No. 94-01555 (United*
 9 *States District Court, District of Columbia).”.*

10 *(b) EFFECTIVE DATE CONFORMING AMENDMENT.—*
 11 *Section 6002(c)(2)(B) of the Omnibus Budget Reconcili-*
 12 *ation Act of 1993 is amended by striking “section*
 13 *332(c)(6)” and inserting “paragraphs (6) and (8) of section*
 14 *332(c).”.*

15 **SEC. 110. FREEDOM FROM TOLL FRAUD.**

16 *(a) AMENDMENT.—Section 228(c) of the Act (47*
 17 *U.S.C. 228(c)) is amended—*

18 *(1) by striking subparagraph (C) of paragraph*
 19 *(7) and inserting the following:*

20 *“(C) the calling party being charged for in-*
 21 *formation conveyed during the call unless—*

22 *“(i) the calling party has a written*
 23 *subscription agreement with the informa-*
 24 *tion provider that meets the requirements of*
 25 *paragraph (8); or*

1 “(ii) the calling party is charged in
 2 accordance with paragraph (9); or”; and
 3 (2) by adding at the end the following new para-
 4 graphs:

5 “(8) *SUBSCRIPTION AGREEMENTS FOR BILLING*
 6 *FOR INFORMATION PROVIDED VIA TOLL-FREE*
 7 *CALLS.—*

8 “(A) *IN GENERAL.—For purposes of para-*
 9 *graph (7)(C)(i), a written subscription agree-*
 10 *ment shall specify the terms and conditions*
 11 *under which the information is offered and in-*
 12 *clude—*

13 “(i) the rate at which charges are as-
 14 sessed for the information;

15 “(ii) the information provider’s name;

16 “(iii) the information provider’s busi-
 17 ness address;

18 “(iv) the information provider’s regu-
 19 lar business telephone number;

20 “(v) the information provider’s agree-
 21 ment to notify the subscriber at least 30
 22 days in advance of all future changes in the
 23 rates charged for the information;

1 “(vi) the signature of a legally com-
 2 petent subscriber agreeing to the terms of
 3 the agreement; and

4 “(vii) the subscriber’s choice of pay-
 5 ment method, which may be by phone bill
 6 or credit, prepaid, or calling card.

7 “(B) BILLING ARRANGEMENTS.—If a sub-
 8 scriber elects, pursuant to subparagraph (A)(vii),
 9 to pay by means of a phone bill—

10 “(i) the agreement shall clearly explain
 11 that the subscriber will be assessed for calls
 12 made to the information service from the
 13 subscriber’s phone line;

14 “(ii) the phone bill shall include, in
 15 prominent type, the following disclaimer:

16 ‘Common carriers may not dis-
 17 connect local or long distance telephone
 18 service for failure to pay disputed
 19 charges for information services.’; and

20 “(iii) the phone bill shall clearly list
 21 the 800 number dialed.

22 “(C) USE OF PIN’S TO PREVENT UNAUTHOR-
 23 IZED USE.—A written agreement does not meet
 24 the requirements of this paragraph unless it pro-
 25 vides the subscriber a personal identification

1 *number to obtain access to the information pro-*
 2 *vided, and includes instructions on its use.*

3 “(D) *EXCEPTIONS.*—*Notwithstanding para-*
 4 *graph (7)(C), a written agreement that meets the*
 5 *requirements of this paragraph is not required—*

6 “(i) *for services provided pursuant to a*
 7 *tariff that has been approved or permitted*
 8 *to take effect by the Commission or a State*
 9 *commission; or*

10 “(ii) *for any purchase of goods or of*
 11 *services that are not information services.*

12 “(E) *TERMINATION OF SERVICE.*—*On com-*
 13 *plaint by any person, a carrier may terminate*
 14 *the provision of service to an information pro-*
 15 *vider unless the provider supplies evidence of a*
 16 *written agreement that meets the requirements of*
 17 *this section. The remedies provided in this para-*
 18 *graph are in addition to any other remedies that*
 19 *are available under title V of this Act.*

20 “(9) *CHARGES BY CREDIT, PREPAID, OR CALLING*
 21 *CARD IN ABSENCE OF AGREEMENT.*—*For purposes of*
 22 *paragraph (7)(C)(ii), a calling party is not charged*
 23 *in accordance with this paragraph unless the calling*
 24 *party is charged by means of a credit, prepaid, or*
 25 *calling card and the information service provider in-*

1 *cludes in response to each call an introductory disclo-*
2 *sure message that—*

3 *“(A) clearly states that there is a charge for*
4 *the call;*

5 *“(B) clearly states the service’s total cost*
6 *per minute and any other fees for the service or*
7 *for any service to which the caller may be trans-*
8 *ferred;*

9 *“(C) explains that the charges must be*
10 *billed on either a credit, prepaid, or calling card;*

11 *“(D) asks the caller for the credit or calling*
12 *card number;*

13 *“(E) clearly states that charges for the call*
14 *begin at the end of the introductory message; and*

15 *“(F) clearly states that the caller can hang*
16 *up at or before the end of the introductory mes-*
17 *sage without incurring any charge whatsoever.*

18 *“(10) DEFINITION OF CALLING CARD.—As used*
19 *in this subsection, the term ‘calling card’ means an*
20 *identifying number or code unique to the individual,*
21 *that is issued to the individual by a common carrier*
22 *and enables the individual to be charged by means of*
23 *a phone bill for charges incurred independent of*
24 *where the call originates.”.*

1 (b) *REGULATIONS.*—*The Federal Communications*
2 *Commission shall revise its regulations to comply with the*
3 *amendment made by subsection (a) of this section within*
4 *180 days after the date of enactment of this Act.*

5 **SEC. 111. REPORT ON MEANS OF RESTRICTING ACCESS TO**
6 **UNWANTED MATERIAL IN INTERACTIVE TELE-**
7 **COMMUNICATIONS SYSTEMS.**

8 (a) *REPORT.*—*Not later than 150 days after the date*
9 *of the enactment of this Act, the Attorney General shall sub-*
10 *mit to the Committees on the Judiciary and Commerce,*
11 *Science, and Transportation of the Senate and the Commit-*
12 *tees on the Judiciary and Commerce of the House of Rep-*
13 *resentatives a report containing—*

14 (1) *an evaluation of the enforceability with re-*
15 *spect to interactive media of current criminal laws*
16 *governing the distribution of obscenity over computer*
17 *networks and the creation and distribution of child*
18 *pornography by means of computers;*

19 (2) *an assessment of the Federal, State, and local*
20 *law enforcement resources that are currently available*
21 *to enforce such laws;*

22 (3) *an evaluation of the technical means avail-*
23 *able—*

24 (A) *to enable parents to exercise control over*
25 *the information that their children receive by*

1 *interactive telecommunications systems so that*
2 *children may avoid violent, sexually explicit,*
3 *harassing, offensive, and other unwanted mate-*
4 *rial on such systems;*

5 *(B) to enable other users of such systems to*
6 *exercise control over the commercial and non-*
7 *commercial information that they receive by such*
8 *systems so that such users may avoid violent,*
9 *sexually explicit, harassing, offensive, and other*
10 *unwanted material on such systems; and*

11 *(C) to promote the free flow of information,*
12 *consistent with the values expressed in the Con-*
13 *stitution, in interactive media; and*

14 *(4) recommendations on means of encouraging*
15 *the development and deployment of technology, in-*
16 *cluding computer hardware and software, to enable*
17 *parents and other users of interactive telecommuni-*
18 *cations systems to exercise the control described in*
19 *subparagraphs (A) and (B) of paragraph (3).*

20 *(b) CONSULTATION.—In preparing the report under*
21 *subsection (a), the Attorney General shall consult with the*
22 *Assistant Secretary of Commerce for Communications and*
23 *Information.*

1 **SEC. 112. TELECOMMUNICATIONS DEVELOPMENT FUND.**

2 (a) *DEPOSIT AND USE OF AUCTION ESCROW AC-*
 3 *COUNTS.—Section 309(j)(8) of the Act (47 U.S.C. 309(j)(8))*
 4 *is amended by adding at the end the following new subpara-*
 5 *graph:*

6 “(C) *DEPOSIT AND USE OF AUCTION ES-*
 7 *CROW ACCOUNTS.—Any deposits the Commission*
 8 *may require for the qualification of any person*
 9 *to bid in a system of competitive bidding pursu-*
 10 *ant to this subsection shall be deposited in an in-*
 11 *terest bearing account at a financial institution*
 12 *designated for purposes of this subsection by the*
 13 *Commission (after consultation with the Sec-*
 14 *retary of the Treasury). Within 45 days follow-*
 15 *ing the conclusion of the competitive bidding—*

16 “(i) *the deposits of successful bidders*
 17 *shall be paid to the Treasury;*

18 “(ii) *the deposits of unsuccessful bid-*
 19 *ders shall be returned to such bidders; and*

20 “(iii) *the interest accrued to the ac-*
 21 *count shall be transferred to the Tele-*
 22 *communications Development Fund estab-*
 23 *lished pursuant to section 10 of this Act.”.*

24 (b) *ESTABLISHMENT AND OPERATION OF FUND.—*
 25 *Title I of the Act is amended by adding at the end the fol-*
 26 *lowing new section:*

1 ***“SEC. 10. TELECOMMUNICATIONS DEVELOPMENT FUND.***

2 *“(a) PURPOSE OF SECTION.—It is the purpose of this*
3 *section—*

4 *“(1) to promote access to capital for small busi-*
5 *nesses in order to enhance competition in the tele-*
6 *communications industry;*

7 *“(2) to stimulate new technology development,*
8 *and promote employment and training; and*

9 *“(3) to support universal service and promote*
10 *delivery of telecommunications services to underserved*
11 *rural and urban areas.*

12 *“(b) ESTABLISHMENT OF FUND.—There is hereby es-*
13 *tablished a body corporate to be known as the Telecommuni-*
14 *cations Development Fund, which shall have succession*
15 *until dissolved. The Fund shall maintain its principal of-*
16 *fice in the District of Columbia and shall be deemed, for*
17 *purposes of venue and jurisdiction in civil actions, to be*
18 *a resident and citizen thereof.*

19 *“(c) BOARD OF DIRECTORS.—*

20 *“(1) COMPOSITION OF BOARD; CHAIRMAN.—The*
21 *Fund shall have a Board of Directors which shall con-*
22 *sist of 7 persons appointed by the Chairman of the*
23 *Commission. Four of such directors shall be represent-*
24 *ative of the private sector and three of such directors*
25 *shall be representative of the Commission, the Small*
26 *Business Administration, and the Department of the*

1 *Treasury, respectively. The Chairman of the Commis-*
 2 *sion shall appoint one of the representatives of the*
 3 *private sector to serve as chairman of the Fund with-*
 4 *in 30 days after the date of enactment of this section,*
 5 *in order to facilitate rapid creation and implementa-*
 6 *tion of the Fund. The directors shall include members*
 7 *with experience in a number of the following areas:*
 8 *finance, investment banking, government banking,*
 9 *communications law and administrative practice,*
 10 *and public policy.*

11 *“(2) TERMS OF APPOINTED AND ELECTED MEM-*
 12 *BERS.—The directors shall be eligible to serve for*
 13 *terms of 5 years, except of the initial members, as des-*
 14 *ignated at the time of their appointment—*

15 *“(A) 1 shall be eligible to service for a term*
 16 *of 1 year;*

17 *“(B) 1 shall be eligible to service for a term*
 18 *of 2 years;*

19 *“(C) 1 shall be eligible to service for a term*
 20 *of 3 years;*

21 *“(D) 2 shall be eligible to service for a term*
 22 *of 4 years; and*

23 *“(E) 2 shall be eligible to service for a term*
 24 *of 5 years (1 of whom shall be the Chairman).*

1 *Directors may continue to serve until their successors*
2 *have been appointed and have qualified.*

3 “(3) *MEETINGS AND FUNCTIONS OF THE*
4 *BOARD.—The Board of Directors shall meet at the call*
5 *of its Chairman, but at least quarterly. The Board*
6 *shall determine the general policies which shall govern*
7 *the operations of the Fund. The Chairman of the*
8 *Board shall, with the approval of the Board, select,*
9 *appoint, and compensate qualified persons to fill the*
10 *offices as may be provided for in the bylaws, with*
11 *such functions, powers, and duties as may be pre-*
12 *scribed by the bylaws or by the Board of Directors,*
13 *and such persons shall be the officers of the Fund and*
14 *shall discharge all such functions, powers, and duties.*

15 “(d) *ACCOUNTS OF THE FUND.—The Fund shall*
16 *maintain its accounts at a financial institution designated*
17 *for purposes of this section by the Chairman of the Board*
18 *(after consultation with the Commission and the Secretary*
19 *of the Treasury). The accounts of the Fund shall consist*
20 *of—*

21 “(1) *interest transferred pursuant to section*
22 *309(j)(8)(C) of this Act;*

23 “(2) *such sums as may be appropriated to the*
24 *Commission for advances to the Fund;*

1 “(3) any contributions or donations to the Fund
2 that are accepted by the Fund; and

3 “(4) any repayment of, or other payment made
4 with respect to, loans, equity, or other extensions of
5 credit made from the Fund.

6 “(e) *USE OF THE FUND.*—All moneys deposited into
7 the accounts of the Fund shall be used solely for—

8 “(1) the making of loans, investments, or other
9 extensions of credits to eligible small businesses in ac-
10 cordance with subsection (f);

11 “(2) the provision of financial advise to eligible
12 small businesses;

13 “(3) expenses for the administration and man-
14 agement of the Fund;

15 “(4) preparation of research, studies, or finan-
16 cial analyses; and

17 “(5) other services consistent with the purposes of
18 this section.

19 “(f) *LENDING AND CREDIT OPERATIONS.*—Loans or
20 other extensions of credit from the Fund shall be made
21 available to eligible small business on the basis of—

22 “(1) the analysis of the business plan of the eligi-
23 ble small business;

24 “(2) the reasonable availability of collateral to
25 secure the loan or credit extension;

1 “(3) the extent to which the loan or credit exten-
2 sion promotes the purposes of this section; and

3 “(4) other lending policies as defined by the
4 Board.

5 “(g) RETURN OF ADVANCES.—Any advances appro-
6 priated pursuant to subsection (b)(2) shall be upon such
7 terms and conditions (including conditions relating to the
8 time or times of repayment) as the Board determines will
9 best carry out the purposes of this section, in light of the
10 maturity and solvency of the Fund.

11 “(h) GENERAL CORPORATE POWERS.—The Fund shall
12 have power—

13 “(1) to sue and be sued, complain and defend, in
14 its corporate name and through its own counsel;

15 “(2) to adopt, alter, and use the corporate seal,
16 which shall be judicially noticed;

17 “(3) to adopt, amend, and repeal by its Board
18 of Directors, bylaws, rules, and regulations as may be
19 necessary for the conduct of its business;

20 “(4) to conduct its business, carry on its oper-
21 ations, and have officers and exercise the power
22 granted by this section in any State without regard
23 to any qualification or similar statute in any State;

24 “(5) to lease, purchase, or otherwise acquire,
25 own, hold, improve, use, or otherwise deal in and

1 *with any property, real, personal, or mixed, or any*
2 *interest therein, wherever situated;*

3 “(6) *to accept gifts or donations of services, or of*
4 *property, real, personal, or mixed, tangible or intan-*
5 *gible, in aid of any of the purposes of the Fund;*

6 “(7) *to sell, convey, mortgage, pledge, lease, ex-*
7 *change, and otherwise dispose of its property and as-*
8 *sets;*

9 “(8) *to appoint such officers, attorneys, employ-*
10 *ees, and agents as may be required, to determine their*
11 *qualifications, to define their duties, to fix their sala-*
12 *ries, require bonds for them, and fix the penalty there-*
13 *of; and*

14 “(9) *to enter into contracts, to execute instru-*
15 *ments, to incur liabilities, to make loans and equity*
16 *investment, and to do all things as are necessary or*
17 *incidental to the proper management of its affairs*
18 *and the proper conduct of its business.*

19 “(i) *ACCOUNTING, AUDITING, AND REPORTING.—The*
20 *accounts of the Fund shall be audited annually. Such audits*
21 *shall be conducted in accordance with generally accepted*
22 *auditing standards by independent certified public account-*
23 *ants. A report of each such audit shall be furnished to the*
24 *Secretary of the Treasury and the Commission. The rep-*
25 *resentatives of the Secretary and the Commission shall have*

1 *access to all books, accounts, financial records, reports, files,*
 2 *and all other papers, things, or property belonging to or*
 3 *in use by the Fund and necessary to facilitate the audit.*

4 “(j) *REPORT ON AUDITS BY TREASURY.*—A report of
 5 *each such audit for a fiscal year shall be made by the Sec-*
 6 *retary of the Treasury to the President and to the Congress*
 7 *not later than 6 months following the close of such fiscal*
 8 *year. The report shall set forth the scope of the audit and*
 9 *shall include a statement of assets and liabilities, capital*
 10 *and surplus or deficit; a statement of surplus or deficit*
 11 *analysis; a statement of income and expense; a statement*
 12 *of sources and application of funds; and such comments and*
 13 *information as may be deemed necessary to keep the Presi-*
 14 *dent and the Congress informed of the operations and finan-*
 15 *cial condition of the Fund, together with such recommenda-*
 16 *tions with respect thereto as the Secretary may deem advis-*
 17 *able.*

18 “(k) *DEFINITIONS.*—As used in this section:

19 “(1) *ELIGIBLE SMALL BUSINESS.*—The term ‘eli-
 20 *gible small business’ means business enterprises en-*
 21 *gaged in the telecommunications industry that have*
 22 *\$50,000,000 or less in annual revenues, on average*
 23 *over the past 3 years prior to submitting the applica-*
 24 *tion under this section.*

1 “(2) *FUND.*—The term ‘Fund’ means the Tele-
 2 communications Development Fund established pur-
 3 suant to this section.

4 “(3) *TELECOMMUNICATIONS INDUSTRY.*—The
 5 term ‘telecommunications industry’ means commu-
 6 nications businesses using regulated or unregulated
 7 facilities or services and includes the broadcasting, te-
 8 lephony, cable, computer, data transmission, software,
 9 programming, advanced messaging, and electronics
 10 businesses.”.

11 **SEC. 113. REPORT ON THE USE OF ADVANCED TELE-**
 12 **COMMUNICATIONS SERVICES FOR MEDICAL**
 13 **PURPOSES.**

14 *The Assistant Secretary of Commerce for Communica-*
 15 *tions and Information, in consultation with the Secretary*
 16 *of Health and Human Services and other appropriate de-*
 17 *partments and agencies, shall submit a report to the Com-*
 18 *mittee on Commerce of the House of Representatives and*
 19 *the Committee on Commerce, Science and Transportation*
 20 *of the Senate concerning the activities of the Joint Working*
 21 *Group on Telemedicine, together with any findings reached*
 22 *in the studies and demonstrations on telemedicine funded*
 23 *by the Public Health Service or other Federal agencies. The*
 24 *report shall examine questions related to patient safety, the*
 25 *efficacy and quality of the services provided, and other*

1 *legal, medical, and economic issues related to the utilization*
 2 *of advanced telecommunications services for medical pur-*
 3 *poses. The report shall be submitted to the respective Com-*
 4 *mittees annually, by January 31, beginning in 1996.*

5 **SEC. 114. TELECOMMUTING PUBLIC INFORMATION PRO-**
 6 **GRAM.**

7 (a) *TELECOMMUTING RESEARCH PROGRAMS AND PUB-*
 8 *LIC INFORMATION DISSEMINATION.*—*The Assistant Sec-*
 9 *retary of Commerce for Communications and Information,*
 10 *in consultation with the Secretary of Transportation, the*
 11 *Secretary of Labor, and the Administrator of the Environ-*
 12 *mental Protection Agency, shall, within three months of the*
 13 *date of enactment of this Act, carry out research to identify*
 14 *successful telecommuting programs in the public and pri-*
 15 *vate sectors and provide for the dissemination to the public*
 16 *of information regarding—*

17 (1) *the establishment of successful telecommuting*
 18 *programs; and*

19 (2) *the benefits and costs of telecommuting.*

20 (b) *REPORT.*—*Within one year of the date of enact-*
 21 *ment of this Act, the Assistant Secretary of Commerce for*
 22 *Communications and Information shall report to Congress*
 23 *the findings, conclusions, and recommendations regarding*
 24 *telecommuting developed under this section.*

1 **SEC. 115. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) *IN GENERAL.*—In addition to any other sums au-
 3 thorized by law, there are authorized to be appropriated to
 4 the Federal Communications Commission such sums as
 5 may be necessary to carry out this Act and the amendments
 6 made by this Act.

7 (b) *EFFECT ON FEES.*—For the purposes of section
 8 9(b)(2) of the Act (47 U.S.C. 159(b)(2)), additional
 9 amounts appropriated pursuant to subsection (a) shall be
 10 construed to be changes in the amounts appropriated for
 11 the performance of activities described in section 9(a) of
 12 such Act.

13 **TITLE II—CABLE COMMUNICA-**
 14 **TIONS COMPETITIVENESS**

15 **SEC. 201. CABLE SERVICE PROVIDED BY TELEPHONE COM-**
 16 **PANIES.**

17 (a) *GENERAL REQUIREMENT.*—

18 (1) *AMENDMENT.*—Section 613(b) of the Act (47
 19 U.S.C. 533(b)) is amended to read as follows:

20 “(b)(1) Subject to the requirements of part V and the
 21 other provisions of this title, any common carrier subject
 22 in whole or in part to title II of this Act may, either
 23 through its own facilities or through an affiliate, provide
 24 video programming directly to subscribers in its telephone
 25 service area.

1 “(2) Subject to the requirements of part V and the
2 other provisions of this title, any common carrier subject
3 in whole or in part to title II of this Act may provide chan-
4 nels of communications or pole, line, or conduit space, or
5 other rental arrangements, to any entity which is directly
6 or indirectly owned, operated, or controlled by, or under
7 common control with, such common carrier, if such facili-
8 ties or arrangements are to be used for, or in connection
9 with, the provision of video programming directly to sub-
10 sscribers in its telephone service area.

11 “(3)(A) Notwithstanding paragraphs (1) and (2), an
12 affiliate described in subparagraph (B) shall not be subject
13 to the requirements of part V (other than section 652),
14 but—

15 “(i) if providing video programming as a cable
16 service using a cable system, shall be subject to the re-
17 quirements of this part and parts III and IV; and

18 “(ii) if providing such video programming by
19 means of radio communication, shall be subject to the
20 requirements of title III.

21 “(B) For purposes of subparagraph (A), an affiliate
22 is described in this subparagraph if such affiliate—

23 “(i) is, consistently with section 655, owned, op-
24 erated, or controlled by, or under common control

1 *with, a common carrier subject in whole or in part*
2 *to title II of this Act;*

3 *“(ii) provides video programming to subscribers*
4 *in the telephone service area of such carrier; and*

5 *“(iii) has not established a video platform in ac-*
6 *cordance with section 653.”.*

7 (2) *CONFORMING AMENDMENT.—Section 602 of*
8 *the Act (47 U.S.C. 531) is amended—*

9 (A) *by redesignating paragraphs (18) and*
10 *(19) as paragraphs (19) and (20) respectively;*
11 *and*

12 (B) *by inserting after paragraph (17) the*
13 *following new paragraph:*

14 *“(18) the term ‘telephone service area’ when used*
15 *in connection with a common carrier subject in whole*
16 *or in part to title II of this Act means the area with-*
17 *in which such carrier provides telephone exchange*
18 *service as of January 1, 1993, but if any common*
19 *carrier after such date transfers its exchange service*
20 *facilities to another common carrier, the area to*
21 *which such facilities provide telephone exchange serv-*
22 *ice shall be treated as part of the telephone service*
23 *area of the acquiring common carrier and not of the*
24 *selling common carrier;”.*

1 (b) *PROVISIONS FOR REGULATION OF CABLE SERVICE*
 2 *PROVIDED BY TELEPHONE COMPANIES.*—Title VI of the
 3 Act (47 U.S.C. 521 et seq.) is amended by adding at the
 4 end the following new part:

5 ***“PART V—VIDEO PROGRAMMING SERVICES***

6 ***PROVIDED BY TELEPHONE COMPANIES***

7 ***“SEC. 651. DEFINITIONS.***

8 *“For purposes of this part—*

9 *“(1) the term ‘control’ means—*

10 *“(A) an ownership interest in which an en-*
 11 *tity has the right to vote more than 50 percent*
 12 *of the outstanding common stock or other owner-*
 13 *ship interest; or*

14 *“(B) if no single entity directly or indi-*
 15 *rectly has the right to vote more than 50 percent*
 16 *of the outstanding common stock or other owner-*
 17 *ship interest, actual working control, in whatever*
 18 *manner exercised, as defined by the Commission*
 19 *by regulation on the basis of relevant factors and*
 20 *circumstances, which shall include partnership*
 21 *and direct ownership interests, voting stock in-*
 22 *terests, the interests of officers and directors, and*
 23 *the aggregation of voting interests; and*

24 *“(2) the term ‘rural area’ means a geographic*
 25 *area that does not include either—*

1 “(A) any incorporated or unincorporated
2 place of 10,000 inhabitants or more, or any part
3 thereof; or

4 “(B) any territory, incorporated or unin-
5 corporated, included in an urbanized area, as
6 defined by the Bureau of the Census.

7 **“SEC. 652. SEPARATE VIDEO PROGRAMMING AFFILIATE.**

8 “(a) *IN GENERAL.*—Except as provided in subsection
9 (d) of this section and section 613(b)(3), a common carrier
10 subject to title II of this Act shall not provide video pro-
11 gramming directly to subscribers in its telephone service
12 area unless such video programming is provided through
13 a video programming affiliate that is separate from such
14 carrier.

15 “(b) *BOOKS AND MARKETING.*—

16 “(1) *IN GENERAL.*—A video programming affili-
17 ate of a common carrier shall—

18 “(A) maintain books, records, and accounts
19 separate from such carrier which identify all
20 transactions with such carrier;

21 “(B) carry out directly (or through any
22 nonaffiliated person) its own promotion, except
23 that institutional advertising carried out by such
24 carrier shall be permitted so long as each party
25 bears its pro rata share of the costs; and

1 “(C) not own real or personal property in
2 common with such carrier.

3 “(2) *INBOUND TELEMARKETING AND REFER-*
4 *RAL.*—Notwithstanding paragraph (1)(B), a common
5 carrier may provide telemarketing or referral services
6 in response to the call of a customer or potential cus-
7 tomer related to the provision of video programming
8 by a video programming affiliate of such carrier. If
9 such services are provided to a video programming af-
10 filiate, such services shall be made available to any
11 video programmer or cable operator on request, on
12 nondiscriminatory terms, at just and reasonable
13 prices.

14 “(3) *JOINT MARKETING.*—Notwithstanding para-
15 graph (1)(B) or section 613(b)(3), a common carrier
16 may market video programming directly upon a
17 showing to the Commission that a cable operator or
18 other entity directly or indirectly provides tele-
19 communications services within the telephone service
20 area of the common carrier, and markets such tele-
21 communications services jointly with video program-
22 ming services. The common carrier shall specify the
23 geographic region covered by the showing. The Com-
24 mission shall approve or disapprove such showing
25 within 60 days after the date of its submission.

1 “(c) *BUSINESS TRANSACTIONS WITH CARRIER.*—Any
 2 *contract, agreement, arrangement, or other manner of con-*
 3 *ducting business, between a common carrier and its video*
 4 *programming affiliate, providing for—*

5 “(1) *the sale, exchange, or leasing of property be-*
 6 *tween such affiliate and such carrier,*

7 “(2) *the furnishing of goods or services between*
 8 *such affiliate and such carrier, or*

9 “(3) *the transfer to or use by such affiliate for*
 10 *its benefit of any asset or resource of such carrier,*
 11 *shall be on a fully compensatory and auditable basis, shall*
 12 *be without cost to the telephone service ratepayers of the*
 13 *carrier, and shall be in compliance with regulations estab-*
 14 *lished by the Commission that will enable the Commission*
 15 *to assess the compliance of any transaction.*

16 “(d) *WAIVER.*—

17 “(1) *CRITERIA FOR WAIVER.*—*The Commission*
 18 *may waive any of the requirements of this section for*
 19 *small telephone companies or telephone companies*
 20 *serving rural areas, if the Commission determines,*
 21 *after notice and comment, that—*

22 “(A) *such waiver will not affect the ability*
 23 *of the Commission to ensure that all video pro-*
 24 *gramming activity is carried out without any*
 25 *support from telephone ratepayers;*

1 “(B) the interests of telephone ratepayers
2 and cable subscribers will not be harmed if such
3 waiver is granted;

4 “(C) such waiver will not adversely affect
5 the ability of persons to obtain access to the
6 video platform of such carrier; and

7 “(D) such waiver otherwise is in the public
8 interest.

9 “(2) DEADLINE FOR ACTION.—The Commission
10 shall act to approve or disapprove a waiver applica-
11 tion within 180 days after the date it is filed.

12 “(3) CONTINUED APPLICABILITY OF SECTION
13 656.—In the case of a common carrier that obtains
14 a waiver under this subsection, any requirement that
15 section 656 applies to a video programming affiliate
16 shall instead apply to such carrier.

17 “(e) SUNSET OF REQUIREMENTS.—The provisions of
18 this section shall cease to be effective on July 1, 2000.

19 **“SEC. 653. ESTABLISHMENT OF VIDEO PLATFORM.**

20 “(a) VIDEO PLATFORM.—

21 “(1) IN GENERAL.—Except as provided in sec-
22 tion 613(b)(3), any common carrier subject to title II
23 of this Act, and that provides video programming di-
24 rectly to subscribers in its telephone service area, may
25 establish a video platform. This paragraph shall not

1 *apply to any carrier to the extent that it provides*
 2 *video programming directly to subscribers in its tele-*
 3 *phone service area solely through a cable system ac-*
 4 *quired in accordance with section 655(b).*

5 “(2) IDENTIFICATION OF DEMAND FOR CAR-

6 *RIAGE.—Any common carrier subject to the require-*
 7 *ments of paragraph (1) shall, prior to establishing a*
 8 *video platform, submit a notice to the Commission of*
 9 *its intention to establish channel capacity for the pro-*
 10 *vision of video programming to meet the bona fide de-*
 11 *mand for such capacity. Such notice shall—*

12 “(A) *be in such form and contain informa-*
 13 *tion concerning the geographic area intended to*
 14 *be served and such information as the Commis-*
 15 *sion may require by regulations pursuant to sub-*
 16 *section (b);*

17 “(B) *specify the methods by which any en-*
 18 *tity seeking to use such channel capacity should*
 19 *submit to such carrier a specification of its*
 20 *channel capacity requirements; and*

21 “(C) *specify the procedures by which such*
 22 *carrier will determine (in accordance with the*
 23 *Commission’s regulations under subsection*
 24 *(b)(1)(B)) whether such requests for capacity are*
 25 *bona fide.*

1 *The Commission shall submit any such notice for*
 2 *publication in the Federal Register within 5 working*
 3 *days.*

4 “(3) *RESPONSE TO REQUEST FOR CARRIAGE.—*
 5 *After receiving and reviewing the requests for capac-*
 6 *ity submitted pursuant to such notice, such common*
 7 *carrier shall establish channel capacity that is suffi-*
 8 *cient to provide carriage for—*

9 “(A) *all bona fide requests submitted pursu-*
 10 *ant to such notice,*

11 “(B) *any additional channels required pur-*
 12 *suant to section 656, and*

13 “(C) *any additional channels required by*
 14 *the Commission’s regulations under subsection*
 15 *(b)(1)(C).*

16 “(4) *RESPONSES TO CHANGES IN DEMAND FOR*
 17 *CAPACITY.—Any common carrier that establishes a*
 18 *video platform under this section shall—*

19 “(A) *immediately notify the Commission*
 20 *and each video programming provider of any*
 21 *delay in or denial of channel capacity or service,*
 22 *and the reasons therefor;*

23 “(B) *continue to receive and grant, to the*
 24 *extent of available capacity, carriage in response*

1 to bona fide requests for carriage from existing
2 or additional video programming providers;

3 “(C) if at any time the number of channels
4 required for bona fide requests for carriage may
5 reasonably be expected soon to exceed the existing
6 capacity of such video platform, immediately no-
7 tify the Commission of such expectation and of
8 the manner and date by which such carrier will
9 provide sufficient capacity to meet such excess
10 demand; and

11 “(D) construct such additional capacity as
12 may be necessary to meet such excess demand.

13 “(5) *DISPUTE RESOLUTION.*—The Commission
14 shall have the authority to resolve disputes under this
15 section and the regulations prescribed thereunder.
16 Any such dispute shall be resolved within 180 days
17 after notice of such dispute is submitted to the Com-
18 mission. At that time or subsequently in a separate
19 damages proceeding, the Commission may award
20 damages sustained in consequence of any violation of
21 this section to any person denied carriage, or require
22 carriage, or both. Any aggrieved party may seek any
23 other remedy available under this Act.

24 “(b) *COMMISSION ACTIONS.*—

1 “(1) *IN GENERAL.*—Within 6 months after the
2 date of the enactment of this section, the Commission
3 shall complete all actions necessary (including any
4 reconsideration) to prescribe regulations that—

5 “(A) consistent with the requirements of sec-
6 tion 656, prohibit a common carrier from dis-
7 criminating among video programming provid-
8 ers with regard to carriage on its video platform,
9 and ensure that the rates, terms, and conditions
10 for such carriage are just, reasonable, and non-
11 discriminatory;

12 “(B) prescribe definitions and criteria for
13 the purposes of determining whether a request
14 shall be considered a bona fide request for pur-
15 poses of this section;

16 “(C) permit a common carrier to carry on
17 only one channel any video programming service
18 that is offered by more than one video program-
19 ming provider (including the common carrier’s
20 video programming affiliate), provided that sub-
21 scribers have ready and immediate access to any
22 such video programming service;

23 “(D) extend to the distribution of video pro-
24 gramming over video platforms the Commission’s
25 regulations concerning sports exclusivity (47

1 *C.F.R. 76.67), network nonduplication (47*
2 *C.F.R. 76.92 et seq.), and syndicated exclusivity*
3 *(47 C.F.R. 76.151 et seq.);*

4 “(E) require the video platform to provide
5 *service, transmission, and interconnection for*
6 *unaffiliated or independent video programming*
7 *providers that is equivalent to that provided to*
8 *the common carrier’s video programming affili-*
9 *ate, except that the video platform shall not dis-*
10 *criminate between analog and digital video pro-*
11 *gramming offered by such unaffiliated or inde-*
12 *pendent video programming providers;*

13 “(F)(i) prohibit a common carrier from un-
14 *reasonably discriminating in favor of its video*
15 *programming affiliate with regard to material*
16 *or information provided by the common carrier*
17 *to subscribers for the purposes of selecting pro-*
18 *gramming on the video platform, or in the way*
19 *such material or information is presented to sub-*
20 *scribers;*

21 “(ii) require a common carrier to ensure
22 *that video programming providers or copyright*
23 *holders (or both) are able suitably and uniquely*
24 *to identify their programming services to sub-*
25 *scribers; and*

1 “(iii) if such identification is transmitted
2 as part of the programming signal, require the
3 carrier to transmit such identification without
4 change or alteration; and

5 “(G) prohibit a common carrier from ex-
6 cluding areas from its video platform service
7 area on the basis of the ethnicity, race, or income
8 of the residents of that area, and provide for
9 public comments on the adequacy of the proposed
10 service area on the basis of the standards set
11 forth under this subparagraph.

12 *Nothing in this section prohibits a common carrier or*
13 *its affiliate from negotiating mutually agreeable*
14 *terms and conditions with over-the-air broadcast sta-*
15 *tions and other unaffiliated video programming pro-*
16 *viders to allow consumer access to their signals on*
17 *any level or screen of any gateway, menu, or other*
18 *program guide, whether provided by the carrier or its*
19 *affiliate.*

20 “(2) *REGULATORY STREAMLINING.*—With respect to
21 *the establishment and operation of a video platform, the re-*
22 *quirements of this section shall apply in lieu of, and not*
23 *in addition to, the requirements of title II.*

1 **“SEC. 654. AUTHORITY TO PROHIBIT CROSS-SUBSIDIZA-**
 2 **TION.**

3 *“Nothing in this part shall prohibit a State commis-*
 4 *sion that regulates the rates for telephone exchange service*
 5 *or exchange access based on the cost of providing such serv-*
 6 *ice or access from—*

7 *“(1) prescribing regulations to prohibit a com-*
 8 *mon carrier from engaging in any practice that re-*
 9 *sults in the inclusion in rates for telephone exchange*
 10 *service or exchange access of any operating expenses,*
 11 *costs, depreciation charges, capital investments, or*
 12 *other expenses directly associated with the provision*
 13 *of competing video programming services by the com-*
 14 *mon carrier or affiliate; or*

15 *“(2) ensuring such competing video program-*
 16 *ming services bear a reasonable share of the joint and*
 17 *common costs of facilities used to provide telephone*
 18 *exchange service or exchange access and competing*
 19 *video programming services.*

20 **“SEC. 655. PROHIBITION ON BUY OUTS.**

21 *“(a) GENERAL PROHIBITION.—No common carrier*
 22 *that provides telephone exchange service, and no entity*
 23 *owned by or under common ownership or control with such*
 24 *carrier, may purchase or otherwise obtain control over any*
 25 *cable system that is located within its telephone service area*
 26 *and is owned by an unaffiliated person.*

1 “(b) *EXCEPTIONS.*—Notwithstanding subsection (a), a
2 *common carrier may—*

3 “(1) *obtain a controlling interest in, or form a*
4 *joint venture or other partnership with, a cable sys-*
5 *tem that serves a rural area;*

6 “(2) *obtain, in addition to any interest, joint*
7 *venture, or partnership obtained or formed pursuant*
8 *to paragraph (1), a controlling interest in, or form a*
9 *joint venture or other partnership with, any cable*
10 *system or systems if—*

11 “(A) *such systems in the aggregate serve less*
12 *than 10 percent of the households in the tele-*
13 *phone service area of such carrier; and*

14 “(B) *no such system serves a franchise area*
15 *with more than 35,000 inhabitants, except that*
16 *a common carrier may obtain such interest or*
17 *form such joint venture or other partnership*
18 *with a cable system that serves a franchise area*
19 *with more than 35,000 but not more than 50,000*
20 *inhabitants if such system is not affiliated with*
21 *any other system whose franchise area is contig-*
22 *uous to the franchise area of the acquired system;*

23 “(3) *obtain, with the concurrence of the cable op-*
24 *erator on the rates, terms, and conditions, the use of*
25 *that part of the transmission facilities of such a cable*

1 *system extending from the last multi-user terminal to*
2 *the premises of the end user, if such use is reasonably*
3 *limited in scope and duration, as determined by the*
4 *Commission; or*

5 *“(4) obtain a controlling interest in, or form a*
6 *joint venture or other partnership with, or provide fi-*
7 *nancing to, a cable system (hereinafter in this para-*
8 *graph referred to as ‘the subject cable system’), if—*

9 *“(A) the subject cable system operates in a*
10 *television market that is not in the top 25 mar-*
11 *kets, and that has more than 1 cable system op-*
12 *erator, and the subject cable system is not the*
13 *largest cable system in such television market;*

14 *“(B) the subject cable system and the largest*
15 *cable system in such television market held on*
16 *May 1, 1995, cable television franchises from the*
17 *largest municipality in the television market and*
18 *the boundaries of such franchises were identical*
19 *on such date;*

20 *“(C) the subject cable system is not owned*
21 *by or under common ownership or control of any*
22 *one of the 50 largest cable system operators as*
23 *existed on May 1, 1995; and*

24 *“(D) the largest system in the television*
25 *market is owned by or under common ownership*

1 *or control of any one of the 10 largest cable sys-*
 2 *tem operators as existed on May 1, 1995.*

3 “(c) *WAIVER.*—

4 “(1) *CRITERIA FOR WAIVER.*—*The Commission*
 5 *may waive the restrictions in subsection (a) of this*
 6 *section only upon a showing by the applicant that—*

7 “(A) *because of the nature of the market*
 8 *served by the cable system concerned—*

9 “(i) *the incumbent cable operator*
 10 *would be subjected to undue economic dis-*
 11 *tress by the enforcement of such subsection;*
 12 *or*

13 “(ii) *the cable system would not be eco-*
 14 *nomically viable if such subsection were en-*
 15 *forced; and*

16 “(B) *the local franchising authority ap-*
 17 *proves of such waiver.*

18 “(2) *DEADLINE FOR ACTION.*—*The Commission*
 19 *shall act to approve or disapprove a waiver applica-*
 20 *tion within 180 days after the date it is filed.*

21 **“SEC. 656. APPLICABILITY OF PARTS I THROUGH IV.**

22 “(a) *IN GENERAL.*—*Any provision that applies to a*
 23 *cable operator under—*

1 “(1) sections 613 (other than subsection (a)(2)
2 thereof), 616, 617, 628, 631, 632, and 634 of this title,
3 shall apply,

4 “(2) sections 611, 612, 614, and 615 of this title,
5 and section 325 of title III, shall apply in accordance
6 with the regulations prescribed under subsection (b),
7 and

8 “(3) parts III and IV (other than sections 628,
9 631, 632, and 634) of this title shall not apply,
10 to any video programming affiliate established by a com-
11 mon carrier in accordance with the requirements of this
12 part.

13 “(b) IMPLEMENTATION.—

14 “(1) COMMISSION ACTION.—The Commission
15 shall prescribe regulations to ensure that a common
16 carrier in the operation of its video platform shall
17 provide (A) capacity, services, facilities, and equip-
18 ment for public, educational, and governmental use,
19 (B) capacity for commercial use, (C) carriage of com-
20 mercial and non-commercial broadcast television sta-
21 tions, and (D) an opportunity for commercial broad-
22 cast stations to choose between mandatory carriage
23 and reimbursement for retransmission of the signal of
24 such station. In prescribing such regulations, the
25 Commission shall, to the extent possible, impose obli-

1 gations that are no greater or lesser than the obliga-
 2 tions contained in the provisions described in sub-
 3 section (a)(2) of this section.

4 “(2) *FEES*.—A video programming affiliate of
 5 any common carrier that establishes a video platform
 6 under this part, and any multichannel video pro-
 7 gramming distributor offering a competing service
 8 using such video platform (as determined in accord-
 9 ance with regulations of the Commission), shall be
 10 subject to the payment of fees imposed by a local fran-
 11 chising authority, in lieu of the fees required under
 12 section 622. The rate at which such fees are imposed
 13 shall not exceed the rate at which franchise fees are
 14 imposed on any cable operator transmitting video
 15 programming in the same service area.

16 **“SEC. 657. RURAL AREA EXEMPTION.**

17 “The provisions of sections 652, 653, and 655 shall not
 18 apply to video programming provided in a rural area by
 19 a common carrier that provides telephone exchange service
 20 in the same area.”.

21 **SEC. 202. COMPETITION FROM CABLE SYSTEMS.**

22 (a) *DEFINITION OF CABLE SERVICE*.—Section
 23 602(6)(B) of the Act (47 U.S.C. 522(6)(B)) is amended by
 24 inserting “or use” after “the selection”.

1 (b) *CLUSTERING*.—Section 613 of the Act (47 U.S.C.
 2 533) is amended by adding at the end the following new
 3 subsection:

4 “(i) *ACQUISITION OF CABLE SYSTEMS*.—Except as
 5 provided in section 655, the Commission may not require
 6 divestiture of, or restrict or prevent the acquisition of, an
 7 ownership interest in a cable system by any person based
 8 in whole or in part on the geographic location of such cable
 9 system.”.

10 (c) *EQUIPMENT*.—Section 623(a) of the Act (47 U.S.C.
 11 543(a)) is amended—

12 (1) in paragraph (6)—

13 (A) by striking “paragraph (4)” and insert-
 14 ing “paragraph (5)”;

15 (B) by striking “paragraph (5)” and insert-
 16 ing “paragraph (6)”; and

17 (C) by striking “paragraph (3)” and insert-
 18 ing “paragraph (4)”;

19 (2) by redesignating paragraphs (3) through (6)
 20 as paragraphs (4) through (7), respectively; and

21 (3) by inserting after paragraph (2) the follow-
 22 ing new paragraph:

23 “(3) *EQUIPMENT*.—If the Commission finds that
 24 a cable system is subject to effective competition under
 25 subparagraph (D) of subsection (l)(1), the rates for

1 *equipment, installations, and connections for addi-*
 2 *tional television receivers (other than equipment, in-*
 3 *stallations, and connections furnished by such system*
 4 *to subscribers who receive only a rate regulated basic*
 5 *service tier) shall not be subject to regulation by the*
 6 *Commission or by a State or franchising authority.*
 7 *If the Commission finds that a cable system is subject*
 8 *to effective competition under subparagraph (A), (B),*
 9 *or (C) of subsection (l)(1), the rates for any equip-*
 10 *ment, installations, and connections furnished by*
 11 *such system to any subscriber shall not be subject to*
 12 *regulation by the Commission, or by a State or fran-*
 13 *chising authority. No Federal agency, State, or fran-*
 14 *chising authority may establish the price or rate for*
 15 *the installation, sale, or lease of any equipment fur-*
 16 *nished to any subscriber by a cable system solely in*
 17 *connection with video programming offered on a per*
 18 *channel or per program basis.”.*

19 (d) *LIMITATION ON BASIC TIER RATE INCREASES;*
 20 *SCOPE OF REVIEW.—Section 623(a) of the Act (47 U.S.C.*
 21 *543(a)) is further amended by adding at the end the follow-*
 22 *ing new paragraph:*

23 “(8) *LIMITATION ON BASIC TIER RATE IN-*
 24 *CREASES; SCOPE OF REVIEW.—A cable operator may*
 25 *not increase its basic service tier rate more than once*

1 *every 6 months. Such increase may be implemented,*
 2 *using any reasonable billing or proration method, 30*
 3 *days after providing notice to subscribers and the ap-*
 4 *propriate regulatory authority. The rate resulting*
 5 *from such increase shall be deemed reasonable and*
 6 *shall not be subject to reduction or refund if the fran-*
 7 *chising authority or the Commission, as appropriate,*
 8 *does not complete its review and issue a final order*
 9 *within 90 days after implementation of such increase.*
 10 *The review by the franchising authority or the Com-*
 11 *mission of any future increase in such rate shall be*
 12 *limited to the incremental change in such rate effected*
 13 *by such increase.”.*

14 (e) NATIONAL INFORMATION INFRASTRUCTURE DE-
 15 VELOPMENT.—Section 623(a) of the Act (47 U.S.C. 543) is
 16 further amended by adding at the end the following new
 17 paragraph:

18 “(9) NATIONAL INFORMATION INFRASTRUC-
 19 TURE.—

20 “(A) PURPOSE.—It is the purpose of this
 21 paragraph to—

22 “(i) promote the development of the
 23 National Information Infrastructure;

24 “(ii) enhance the competitiveness of the
 25 National Information Infrastructure by en-

1 *sureing that cable operators have incentives*
2 *comparable to other industries to develop*
3 *such infrastructure; and*

4 “(iii) *encourage the rapid deployment*
5 *of digital technology necessary to the devel-*
6 *opment of the National Information Infra-*
7 *structure.*

8 “(B) AGGREGATION OF EQUIPMENT
9 *COSTS.—The Commission shall allow cable oper-*
10 *ators, pursuant to any rules promulgated under*
11 *subsection (b)(3), to aggregate, on a franchise,*
12 *system, regional, or company level, their equip-*
13 *ment costs into broad categories, such as con-*
14 *verter boxes, regardless of the varying levels of*
15 *functionality of the equipment within each such*
16 *broad category. Such aggregation shall not be*
17 *permitted with respect to equipment used by sub-*
18 *scribers who receive only a rate regulated basic*
19 *service tier.*

20 “(C) REVISION TO COMMISSION RULES;
21 *FORMS.—Within 120 days of the date of enact-*
22 *ment of this paragraph, the Commission shall*
23 *issue revisions to the appropriate rules and*
24 *forms necessary to implement subparagraph*
25 *(B).”.*

1 (f) *COMPLAINT THRESHOLD; SCOPE OF COMMISSION*
 2 *REVIEW.*—Section 623(c) of the Act (47 U.S.C. 543(c)) is
 3 amended—

4 (1) by striking paragraph (3) and inserting the
 5 following:

6 “(3) *REVIEW OF COMPLAINTS.*—

7 “(A) *COMPLAINT THRESHOLD.*—The Com-
 8 mission shall have the authority to review any
 9 increase in the rates for cable programming serv-
 10 ices implemented after the date of enactment of
 11 the Communications Act of 1995 only if, within
 12 90 days after such increase becomes effective, at
 13 least 10 subscribers to such services or 3 percent
 14 of the subscribers to such services, whichever is
 15 greater, file separate, individual complaints
 16 against such increase with the Commission in
 17 accordance with the requirements established
 18 under paragraph (1)(B).

19 “(B) *TIME PERIOD FOR COMMISSION RE-*
 20 *VIEW.*—The Commission shall complete its re-
 21 view of any such increase and issue a final order
 22 within 90 days after it receives the number of
 23 complaints required by subparagraph (A).

24 “(4) *TREATMENT OF PENDING CABLE PROGRAM-*
 25 *MING SERVICES COMPLAINTS.*—Upon enactment of the

1 *Communications Act of 1995, the Commission shall*
2 *suspend the processing of all pending cable program-*
3 *ming services rate complaints. These pending com-*
4 *plaints shall be counted by the Commission toward*
5 *the complaint threshold specified in paragraph*
6 *(3)(A). Parties shall have an additional 90 days from*
7 *the date of enactment of such Act to file complaints*
8 *about prior increases in cable programming services*
9 *rates if such rate increases were already subject to a*
10 *valid, pending complaint on such date of enactment.*
11 *At the expiration of such 90-day period, the Commis-*
12 *sion shall dismiss all pending cable programming*
13 *services rate cases for which the complaint threshold*
14 *has not been met, and may resume its review of those*
15 *pending cable programming services rate cases for*
16 *which the complaint threshold has been met, which*
17 *review shall be completed within 180 days after the*
18 *date of enactment of the Communications Act of 1995.*

19 “(5) *SCOPE OF COMMISSION REVIEW.*—A cable
20 *programming services rate shall be deemed not unrea-*
21 *sonable and shall not be subject to reduction or refund*
22 *if—*

23 “(A) *such rate was not the subject of a*
24 *pending complaint at the time of enactment of*
25 *the Communications Act of 1995;*

1 “(B) such rate was the subject of a com-
 2 plaint that was dismissed pursuant to para-
 3 graph (4);

4 “(C) such rate resulted from an increase for
 5 which the complaint threshold specified in para-
 6 graph (3)(A) has not been met;

7 “(D) the Commission does not complete its
 8 review and issue a final order in the time period
 9 specified in paragraph (3)(B) or (4); or

10 “(E) the Commission issues an order find-
 11 ing such rate to be not unreasonable.

12 *The review by the Commission of any future increase*
 13 *in such rate shall be limited to the incremental*
 14 *change in such rate effected by such increase.”;*

15 (2) in paragraph (1)(B) by striking “obtain
 16 Commission consideration and resolution of whether
 17 the rate in question is unreasonable” and inserting
 18 “be counted toward the complaint threshold specified
 19 in paragraph (3)(A)”;

20 (3) in paragraph (1)(C) by striking “such com-
 21 plaint” and inserting in lieu thereof “the first com-
 22 plaint”.

23 (g) *UNIFORM RATE STRUCTURE.*—Section 623(d) of
 24 the Act (47 U.S.C. 543(d)) is amended to read as follows:

1 “(d) *UNIFORM RATE STRUCTURE*.—A cable operator
 2 shall have a uniform rate structure throughout its franchise
 3 area for the provision of cable services that are regulated
 4 by the Commission or the franchising authority. Bulk dis-
 5 counts to multiple dwelling units shall not be subject to this
 6 requirement.”.

7 (h) *EFFECTIVE COMPETITION*.—Section 623(l)(1) of
 8 the Act (47 U.S.C. 543(l)(1)) is amended—

9 (1) in subparagraph (B)(ii)—

10 (A) by inserting “all” before “multichannel
 11 video programming distributors”; and

12 (B) by striking “or” at the end thereof;

13 (2) by striking the period at the end of subpara-
 14 graph (C) and inserting “; or”; and

15 (3) by adding at the end the following:

16 “(D) with respect to cable programming
 17 services and subscriber equipment, installations,
 18 and connections for additional television receiv-
 19 ers (other than equipment, installations, and
 20 connections furnished to subscribers who receive
 21 only a rate regulated basic service tier)—

22 “(i) a common carrier has been au-
 23 thorized by the Commission to construct fa-
 24 cilities to provide video dialtone service in
 25 the cable operator’s franchise area;

1 “(ii) a common carrier has been au-
 2 thorized by the Commission or pursuant to
 3 a franchise to provide video programming
 4 directly to subscribers in the franchise area;
 5 or

6 “(iii) 270 days have elapsed since the
 7 Commission has completed all actions nec-
 8 essary (including any reconsideration) to
 9 prescribe regulations pursuant to section
 10 653(b)(1) relating to video platforms.”.

11 (i) *RELIEF FOR SMALL CABLE OPERATORS.*—Section
 12 623 of the Act (47 U.S.C. 543) is amended by adding at
 13 the end the following new subsection:

14 “(m) *SMALL CABLE OPERATORS.*—

15 “(1) *SMALL CABLE OPERATOR RELIEF.*—A small
 16 cable operator shall not be subject to subsections (a),
 17 (b), (c), or (d) in any franchise area with respect to
 18 the provision of cable programming services, or a
 19 basic service tier where such tier was the only tier of-
 20 fered in such area on December 31, 1994.

21 “(2) *DEFINITION OF SMALL CABLE OPERATOR.*—
 22 For purposes of this subsection, ‘small cable operator’
 23 means a cable operator that—

1 “(A) directly or through an affiliate, serves
 2 in the aggregate fewer than 1 percent of all cable
 3 subscribers in the United States; and

4 “(B) is not affiliated with any entity or en-
 5 tities whose gross annual revenues in the aggre-
 6 gate exceed \$250,000,000.”.

7 (j) *TECHNICAL STANDARDS.*—Section 624(e) of the Act
 8 (47 U.S.C. 544(e)) is amended by striking the last two sen-
 9 tences and inserting the following: “No State or franchising
 10 authority may prohibit, condition, or restrict a cable sys-
 11 tem’s use of any type of subscriber equipment or any trans-
 12 mission technology.”.

13 (k) *CABLE SECURITY SYSTEMS.*—Section 624A(b)(2)
 14 of the Act (47 U.S.C. 544a(b)(2)) is amended to read as
 15 follows:

16 “(2) *CABLE SECURITY SYSTEMS.*—No Federal
 17 agency, State, or franchising authority may prohibit
 18 a cable operator’s use of any security system (includ-
 19 ing scrambling, encryption, traps, and interdiction),
 20 except that the Commission may prohibit the use of
 21 any such system solely with respect to the delivery of
 22 a basic service tier that, as of January 1, 1995, con-
 23 tained only the signals and programming specified in
 24 section 623(b)(7)(A), unless the use of such system is

1 *necessary to prevent the unauthorized reception of*
 2 *such tier.”.*

3 (1) *CABLE EQUIPMENT COMPATIBILITY.*—Section
 4 624A of the Act (47 U.S.C. 544A), is amended—

5 (1) *in subsection (a) by striking “and” at the*
 6 *end of paragraph (2), by striking the period at the*
 7 *end of paragraph (3) and inserting “; and”; and by*
 8 *adding at the end the following new paragraph:*

9 “(4) *compatibility among televisions, video cas-*
 10 *sette recorders, and cable systems can be assured with*
 11 *narrow technical standards that mandate a minimum*
 12 *degree of common design and operation, leaving all*
 13 *features, functions, protocols, and other product and*
 14 *service options for selection through open competition*
 15 *in the market.”;*

16 (2) *in subsection (c)(1)—*

17 (A) *by redesignating subparagraphs (A)*
 18 *and (B) as subparagraphs (B) and (C), respec-*
 19 *tively; and*

20 (B) *by inserting before such redesignated*
 21 *subparagraph (B) the following new subpara-*
 22 *graph:*

23 “(A) *the need to maximize open competition*
 24 *in the market for all features, functions, proto-*
 25 *cols, and other product and service options of*

1 *converter boxes and other cable converters unre-*
 2 *lated to the descrambling or decryption of cable*
 3 *television signals;”;* and

4 *(3) in subsection (c)(2)—*

5 *(A) by redesignating subparagraphs (D)*
 6 *and (E) as subparagraphs (E) and (F), respec-*
 7 *tively; and*

8 *(B) by inserting after subparagraph (C) the*
 9 *following new subparagraph:*

10 *“(D) to ensure that any standards or regu-*
 11 *lations developed under the authority of this sec-*
 12 *tion to ensure compatibility between televisions,*
 13 *video cassette recorders, and cable systems do not*
 14 *affect features, functions, protocols, and other*
 15 *product and service options other than those*
 16 *specified in paragraph (1)(B), including tele-*
 17 *communications interface equipment, home auto-*
 18 *mation communications, and computer network*
 19 *services;”.*

20 *(m) RETIERING OF BASIC TIER SERVICES.—Section*
 21 *625(d) of the Act (47 U.S.C. 543(d)) is amended by adding*
 22 *at the end the following new sentence: “Any signals or serv-*
 23 *ices carried on the basic service tier but not required under*
 24 *section 623(b)(7)(A) may be moved from the basic service*
 25 *tier at the operator’s sole discretion, provided that the re-*

1 *moval of such a signal or service from the basic service tier*
 2 *is permitted by contract. The movement of such signals or*
 3 *services to an unregulated package of services shall not sub-*
 4 *ject such package to regulation.”.*

5 *(n) SUBSCRIBER NOTICE.—Section 632 of the Act (47*
 6 *U.S.C. 552) is amended—*

7 *(1) by redesignating subsection (c) as subsection*
 8 *(d); and*

9 *(2) by inserting after subsection (b) the following*
 10 *new subsection:*

11 *“(c) SUBSCRIBER NOTICE.—A cable operator may pro-*
 12 *vide notice of service and rate changes to subscribers using*
 13 *any reasonable written means at its sole discretion. Not-*
 14 *withstanding section 623(b)(6) or any other provision of*
 15 *this Act, a cable operator shall not be required to provide*
 16 *prior notice of any rate change that is the result of a regu-*
 17 *latory fee, franchise fee, or any other fee, tax, assessment,*
 18 *or charge of any kind imposed by any Federal agency,*
 19 *State, or franchising authority on the transaction between*
 20 *the operator and the subscriber.”.*

21 *(o) TREATMENT OF PRIOR YEAR LOSSES.—*

22 *(1) AMENDMENT.—Section 623 (48 U.S.C. 543)*
 23 *is amended by adding at the end thereof the following:*

24 *“(n) TREATMENT OF PRIOR YEAR LOSSES.—Notwith-*
 25 *standing any other provision of this section or of section*

1 612, losses (including losses associated with the acquisitions
 2 of such franchise) that were incurred prior to September
 3 4, 1992, with respect to a cable system that is owned and
 4 operated by the original franchisee of such system shall not
 5 be disallowed, in whole or in part, in the determination
 6 of whether the rates for any tier of service or any type of
 7 equipment that is subject to regulation under this section
 8 are lawful.”.

9 (2) *EFFECTIVE DATE.*—The amendment made by
 10 paragraph (1) shall take effect on the date of enact-
 11 ment of this Act and shall be applicable to any rate
 12 proposal filed on or after September 4, 1993.

13 **SEC. 203. COMPETITIVE AVAILABILITY OF NAVIGATION DE-**
 14 **VICES.**

15 Title VII of the Act is amended by adding at the end
 16 the following new section:

17 **“SEC. 713. COMPETITIVE AVAILABILITY OF NAVIGATION DE-**
 18 **VICES.**

19 “(a) *DEFINITIONS.*—As used in this section:

20 “(1) The term ‘telecommunications subscription
 21 service’ means the provision directly to subscribers of
 22 video, voice, or data services for which a subscriber
 23 charge is made.

1 “(2) The term ‘telecommunications system’ or a
2 ‘telecommunications system operator’ means a pro-
3 vider of telecommunications subscription service.

4 “(b) COMPETITIVE CONSUMER AVAILABILITY OF CUS-
5 TOMER PREMISES EQUIPMENT.—The Commission shall
6 adopt regulations to assure competitive availability, to con-
7 sumers of telecommunications subscription services, of con-
8 verter boxes, interactive communications devices, and other
9 customer premises equipment from manufacturers, retail-
10 ers, and other vendors not affiliated with any telecommuni-
11 cations system operator. Such regulations shall not prohibit
12 any telecommunications system operator from also offering
13 devices and customer premises equipment to consumers,
14 provided that the system operator’s charges to consumers
15 for such devices and equipment are separately stated and
16 not subsidized by charges for any telecommunications sub-
17 scription service.

18 “(c) PROTECTION OF SYSTEM SECURITY.—The Com-
19 mission shall not prescribe regulations pursuant to sub-
20 section (b) which would jeopardize the security of a tele-
21 communications system or impede the legal rights of a pro-
22 vider of such service to prevent theft of service.

23 “(d) WAIVER FOR NEW NETWORK SERVICES.—The
24 Commission shall waive a regulation adopted pursuant to
25 subsection (b) for a limited time upon an appropriate show-

1 *ing by a telecommunications system operator that such*
 2 *waiver is necessary to assist the development or introduc-*
 3 *tion of a new or improved telecommunications subscription*
 4 *service or technology.*

5 *“(e) AVOIDANCE OF REDUNDANT REGULATIONS.—*

6 *“(1) MARKET COMPETITIVENESS DETERMINA-*
 7 *TIONS.—Determinations made or regulations pre-*
 8 *scribed by the Commission with respect to market*
 9 *competitiveness of customer premises equipment prior*
 10 *to the date of enactment of this section shall fulfill the*
 11 *requirements of this section.*

12 *“(2) REGULATIONS.—Nothing in this section af-*
 13 *fects the Commission’s regulations governing the*
 14 *interconnection and competitive provision of customer*
 15 *premises equipment used in connection with basic*
 16 *telephone service.*

17 *“(f) SUNSET.—The regulations adopted pursuant to*
 18 *this section shall cease to apply to any market for the acqui-*
 19 *sition of converter boxes, interactive communications de-*
 20 *vices, or other customer premises equipment when the Com-*
 21 *mission determines that such market is competitive.”.*

22 **SEC. 204. VIDEO PROGRAMMING ACCESSIBILITY.**

23 *(a) COMMISSION INQUIRY.—Within 180 days after the*
 24 *date of enactment of this section, the Federal Communica-*
 25 *tions Commission shall complete an inquiry to ascertain*

1 *the level at which video programming is closed captioned.*
 2 *Such inquiry shall examine the extent to which existing or*
 3 *previously published programming is closed captioned, the*
 4 *size of the video programming provider or programming*
 5 *owner providing closed captioning, the size of the market*
 6 *served, the relative audience shares achieved, or any other*
 7 *related factors. The Commission shall submit to the Con-*
 8 *gress a report on the results of such inquiry.*

9 (b) *ACCOUNTABILITY CRITERIA.*—Within 18 months
 10 *after the date of enactment, the Commission shall prescribe*
 11 *such regulations as are necessary to implement this section.*
 12 *Such regulations shall ensure that—*

13 (1) *video programming first published or exhib-*
 14 *ited after the effective date of such regulations is fully*
 15 *accessible through the provision of closed captions, ex-*
 16 *cept as provided in subsection (d); and*

17 (2) *video programming providers or owners*
 18 *maximize the accessibility of video programming first*
 19 *published or exhibited prior to the effective date of*
 20 *such regulations through the provision of closed cap-*
 21 *tions, except as provided in subsection (d).*

22 (c) *DEADLINES FOR CAPTIONING.*—Such regulations
 23 *shall include an appropriate schedule of deadlines for the*
 24 *provision of closed captioning of video programming.*

25 (d) *EXEMPTIONS.*—Notwithstanding subsection (b)—

1 (1) *the Commission may exempt by regulation*
2 *programs, classes of programs, or services for which*
3 *the Commission has determined that the provision of*
4 *closed captioning would be economically burdensome*
5 *to the provider or owner of such programming;*

6 (2) *a provider of video programming or the*
7 *owner of any program carried by the provider shall*
8 *not be obligated to supply closed captions if such ac-*
9 *tion would be inconsistent with contracts in effect on*
10 *the date of enactment of this Act, except that nothing*
11 *in this section shall be construed to relieve a video*
12 *programming provider of its obligations to provide*
13 *services required by Federal law; and*

14 (3) *a provider of video programming or program*
15 *owner may petition the Commission for an exemption*
16 *from the requirements of this section, and the Com-*
17 *mission may grant such petition upon a showing that*
18 *the requirements contained in this section would re-*
19 *sult in an undue burden.*

20 (e) *UNDUE BURDEN.—The term “undue burden”*
21 *means significant difficulty or expense. In determining*
22 *whether the closed captions necessary to comply with the*
23 *requirements of this paragraph would result in an undue*
24 *economic burden, the factors to be considered include—*

1 (1) *the nature and cost of the closed captions for*
2 *the programming;*

3 (2) *the impact on the operation of the provider*
4 *or program owner;*

5 (3) *the financial resources of the provider or pro-*
6 *gram owner; and*

7 (4) *the type of operations of the provider or pro-*
8 *gram owner.*

9 (f) *VIDEO DESCRIPTIONS INQUIRY.*—*Within 6 months*
10 *after the date of enactment of this Act, the Commission shall*
11 *commence an inquiry to examine the use of video descrip-*
12 *tions on video programming in order to ensure the acces-*
13 *sibility of video programming to persons with visual im-*
14 *pairments, and report to Congress on its findings. The*
15 *Commission's report shall assess appropriate methods and*
16 *schedules for phasing video descriptions into the market-*
17 *place, technical and quality standards for video descrip-*
18 *tions, a definition of programming for which video descrip-*
19 *tions would apply, and other technical and legal issues that*
20 *the Commission deems appropriate. Following the comple-*
21 *tion of such inquiry, the Commission may adopt regulation*
22 *it deems necessary to promote the accessibility of video pro-*
23 *gramming to persons with visual impairments.*

24 (g) *VIDEO DESCRIPTION.*—*For purposes of this sec-*
25 *tion, "video description" means the insertion of audio nar-*

1 *rated descriptions of a television program's key visual ele-*
 2 *ments into natural pauses between the program's dialogue.*

3 *(h) PRIVATE RIGHTS OF ACTIONS PROHIBITED.—*

4 *Nothing in this section shall be construed to authorize any*
 5 *private right of action to enforce any requirement of this*
 6 *section or any regulation thereunder. The Commission shall*
 7 *have exclusive jurisdiction with respect to any complaint*
 8 *under this section.*

9 **SEC. 205. TECHNICAL AMENDMENTS.**

10 *(a) RETRANSMISSION.—Section 325(b)(2)(D) of the*
 11 *Act (47 U.S.C. 325(b)(2)(D)) is amended to read as follows:*

12 *“(D) retransmission by a cable operator or other*
 13 *multichannel video programming distributor of the*
 14 *signal of a superstation if (i) the customers served by*
 15 *the cable operator or other multichannel video pro-*
 16 *gramming distributor reside outside the originating*
 17 *station's television market, as defined by the Commis-*
 18 *sion for purposes of section 614(h)(1)(C); (ii) such*
 19 *signal was obtained from a satellite carrier or terres-*
 20 *trial microwave common carrier; and (iii) and the*
 21 *origination station was a superstation on May 1,*
 22 *1991.”.*

23 *(b) MARKET DETERMINATIONS.—Section*
 24 *614(h)(1)(C)(i) of the Act (47 U.S.C. 534(h)(1)(C)(i)) is*
 25 *amended by striking out “in the manner provided in section*

1 73.3555(d)(3)(i) of title 47, Code of Federal Regulations,
 2 as in effect on May 1, 1991,” and inserting “by the Com-
 3 mission by regulation or order using, where available, com-
 4 mercial publications which delineate television markets
 5 based on viewing patterns.”.

6 (c) *TIME FOR DECISION*.—Section 614(h)(1)(C)(iv) of
 7 such Act is amended to read as follows:

8 “(iv) Within 120 days after the date a re-
 9 quest is filed under this subparagraph, the Com-
 10 mission shall grant or deny the request.”.

11 (d) *PROCESSING OF PENDING COMPLAINTS*.—The
 12 Commission shall, unless otherwise informed by the person
 13 making the request, assume that any person making a re-
 14 quest to include or exclude additional communities under
 15 section 614(h)(1)(C) of such Act (as in effect prior to the
 16 date of enactment of this Act) continues to request such in-
 17 clusion or exclusion under such section as amended under
 18 subsection (b).

19 **TITLE III—BROADCAST COMMU-**
 20 **NICATIONS COMPETITIVE-**
 21 **NESS**

22 **SEC. 301. BROADCASTER SPECTRUM FLEXIBILITY.**

23 Title III of the Act is amended by inserting after sec-
 24 tion 335 (47 U.S.C. 335) the following new section:

1 ***“SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.***

2 “(a) *COMMISSION ACTION.*—If the Commission deter-
3 *mines to issue additional licenses for advanced television*
4 *services, the Commission shall—*

5 “(1) *limit the initial eligibility for such licenses*
6 *to persons that, as of the date of such issuance, are*
7 *licensed to operate a television broadcast station or*
8 *hold a permit to construct such a station (or both);*
9 *and*

10 “(2) *adopt regulations that allow such licensees*
11 *or permittees to offer such ancillary or supplementary*
12 *services on designated frequencies as may be consist-*
13 *ent with the public interest, convenience, and neces-*
14 *sity.*

15 “(b) *CONTENTS OF REGULATIONS.*—In prescribing the
16 *regulations required by subsection (a), the Commission*
17 *shall—*

18 “(1) *only permit such licensee or permittee to*
19 *offer ancillary or supplementary services if the use of*
20 *a designated frequency for such services is consistent*
21 *with the technology or method designated by the Com-*
22 *mission for the provision of advanced television serv-*
23 *ices;*

24 “(2) *limit the broadcasting of ancillary or sup-*
25 *plementary services on designated frequencies so as to*
26 *avoid derogation of any advanced television services,*

1 *including high definition television broadcasts, that*
2 *the Commission may require using such frequencies;*

3 *“(3) apply to any other ancillary or supple-*
4 *mentary service such of the Commission’s regulations*
5 *as are applicable to the offering of analogous services*
6 *by any other person, except that no ancillary or sup-*
7 *plementary service shall have any rights to carriage*
8 *under section 614 or 615 or be deemed a multichannel*
9 *video programming distributor for purposes of section*
10 *628;*

11 *“(4) adopt such technical and other requirements*
12 *as may be necessary or appropriate to assure the*
13 *quality of the signal used to provide advanced tele-*
14 *vision services, and may adopt regulations that stipu-*
15 *late the minimum number of hours per day that such*
16 *signal must be transmitted; and*

17 *“(5) prescribe such other regulations as may be*
18 *necessary for the protection of the public interest, con-*
19 *venience, and necessity.*

20 *“(c) RECOVERY OF LICENSE.—*

21 *“(1) CONDITIONS REQUIRED.—If the Commis-*
22 *sion grants a license for advanced television services*
23 *to a person that, as of the date of such issuance, is*
24 *licensed to operate a television broadcast station or*
25 *holds a permit to construct such a station (or both),*

1 *the Commission shall, as a condition of such license,*
2 *require that, upon a determination by the Commis-*
3 *sion pursuant to the regulations prescribed under*
4 *paragraph (2), either the additional license or the*
5 *original license held by the licensee be surrendered to*
6 *the Commission in accordance with such regulations*
7 *for reallocation or reassignment (or both) pursuant*
8 *to Commission regulation.*

9 “(2) *CRITERIA.*—*The Commission shall prescribe*
10 *criteria for rendering determinations concerning li-*
11 *cence surrender pursuant to license conditions re-*
12 *quired by paragraph (1). Such criteria shall—*

13 “(A) *require such determinations to be*
14 *based, on a market-by-market basis, on whether*
15 *the substantial majority of the public have ob-*
16 *tained television receivers that are capable of re-*
17 *ceiving advanced television services; and*

18 “(B) *not require the cessation of the broad-*
19 *casting under either the original or additional*
20 *license if such cessation would render the tele-*
21 *vision receivers of a substantial portion of the*
22 *public useless, or otherwise cause undue burdens*
23 *on the owners of such television receivers.*

24 “(3) *AUCTION OF RETURNED SPECTRUM.*—*Any*
25 *license surrendered under the requirements of this*

1 *subsection shall be subject to assignment by use of*
 2 *competitive bidding pursuant to section 309(j), not-*
 3 *withstanding any limitations contained in paragraph*
 4 *(2) of such section.*

5 “(d) FEES.—

6 “(1) SERVICES TO WHICH FEES APPLY.—If the
 7 *regulations prescribed pursuant to subsection (a) per-*
 8 *mit a licensee to offer ancillary or supplementary*
 9 *services on a designated frequency—*

10 “(A) for which the payment of a subscrip-
 11 *tion fee is required in order to receive such serv-*
 12 *ices, or*

13 “(B) for which the licensee directly or indi-
 14 *rectly receives compensation from a third party*
 15 *in return for transmitting material furnished by*
 16 *such third party (other than commercial adver-*
 17 *tisements used to support broadcasting for which*
 18 *a subscription fee is not required),*

19 *the Commission shall establish a program to assess*
 20 *and collect from the licensee for such designated fre-*
 21 *quency an annual fee or other schedule or method of*
 22 *payment that promotes the objectives described in sub-*
 23 *paragraphs (A) and (B) of paragraph (2).*

24 “(2) COLLECTION OF FEES.—The program re-
 25 *quired by paragraph (1) shall—*

1 “(A) be designed (i) to recover for the public
 2 a portion of the value of the public spectrum re-
 3 source made available for such commercial use,
 4 and (ii) to avoid unjust enrichment through the
 5 method employed to permit such uses of that re-
 6 source;

7 “(B) recover for the public an amount that,
 8 to the extent feasible, equals but does not exceed
 9 (over the term of the license) the amount that
 10 would have been recovered had such services been
 11 licensed pursuant to the provisions of section
 12 309(j) of this Act and the Commission’s regula-
 13 tions thereunder; and

14 “(C) be adjusted by the Commission from
 15 time to time in order to continue to comply with
 16 the requirements of this paragraph.

17 “(3) TREATMENT OF REVENUES.—

18 “(A) GENERAL RULE.—Except as provided
 19 in subparagraph (B), all proceeds obtained pur-
 20 suant to the regulations required by this sub-
 21 section shall be deposited in the Treasury in ac-
 22 cordance with chapter 33 of title 31, United
 23 States Code.

24 “(B) RETENTION OF REVENUES.—Notwith-
 25 standing subparagraph (A), the salaries and ex-

1 *penses account of the Commission shall retain as*
2 *an offsetting collection such sums as may be nec-*
3 *essary from such proceeds for the costs of devel-*
4 *oping and implementing the program required*
5 *by this section and regulating and supervising*
6 *advanced television services. Such offsetting col-*
7 *lections shall be available for obligation subject*
8 *to the terms and conditions of the receiving ap-*
9 *propriations account, and shall be deposited in*
10 *such accounts on a quarterly basis.*

11 “(4) *REPORT.*—Within 5 years after the date of
12 *the enactment of this section, the Commission shall*
13 *report to the Congress on the implementation of the*
14 *program required by this subsection, and shall annu-*
15 *ally thereafter advise the Congress on the amounts*
16 *collected pursuant to such program.*

17 “(e) *EVALUATION.*—Within 10 years after the date the
18 *Commission first issues additional licenses for advanced tel-*
19 *evision services, the Commission shall conduct an evalua-*
20 *tion of the advanced television services program. Such eval-*
21 *uation shall include—*

22 “(1) *an assessment of the willingness of consum-*
23 *ers to purchase the television receivers necessary to re-*
24 *ceive broadcasts of advanced television services;*

1 “(2) an assessment of alternative uses, including
2 public safety use, of the frequencies used for such
3 broadcasts; and

4 “(3) the extent to which the Commission has been
5 or will be able to reduce the amount of spectrum as-
6 signed to licensees.

7 “(f) *DEFINITIONS.*—As used in this section:

8 “(1) *ADVANCED TELEVISION SERVICES.*—The
9 term ‘advanced television services’ means television
10 services provided using digital or other advanced tech-
11 nology as further defined in the opinion, report, and
12 order of the Commission entitled ‘Advanced Television
13 Systems and Their Impact Upon the Existing Tele-
14 vision Broadcast Service’, MM Docket 87-268, adopt-
15 ed September 17, 1992, and successor proceedings.

16 “(2) *DESIGNATED FREQUENCIES.*—The term
17 ‘designated frequency’ means each of the frequencies
18 designated by the Commission for licenses for ad-
19 vanced television services.

20 “(3) *HIGH DEFINITION TELEVISION.*—The term
21 ‘high definition television’ refers to systems that offer
22 approximately twice the vertical and horizontal reso-
23 lution of receivers generally available on the date of
24 enactment of this section, as further defined in the

1 *proceedings described in paragraph (1) of this sub-*
 2 *section.”.*

3 **SEC. 302. BROADCAST OWNERSHIP.**

4 *Title III of the Act is amended by inserting after sec-*
 5 *tion 336 (as added by section 301) the following new sec-*
 6 *tion:*

7 **“SEC. 337. BROADCAST OWNERSHIP.**

8 “(a) *LIMITATIONS ON COMMISSION RULEMAKING AU-*
 9 *THORITY.—Except as expressly permitted in this section,*
 10 *and consistent with section 613(a) of the Act, the Commis-*
 11 *sion shall not prescribe or enforce any regulation—*

12 “(1) *prohibiting or limiting, either nationally or*
 13 *within any particular area, a person or entity from*
 14 *holding any form of ownership or other interest in*
 15 *two or more broadcasting stations or in a broadcast-*
 16 *ing station and any other medium of mass commu-*
 17 *nication; or*

18 “(2) *prohibiting a person or entity from owning,*
 19 *operating, or controlling two or more networks of*
 20 *broadcasting stations or from owning, operating, or*
 21 *controlling a network of broadcasting stations and*
 22 *any other medium of mass communications.*

23 “(b) *TELEVISION OWNERSHIP LIMITATIONS.—*

24 “(1) *NATIONAL AUDIENCE REACH LIMITA-*
 25 *TIONS.—The Commission shall prohibit a person or*

1 *entity from obtaining any license if such license*
 2 *would result in such person or entity directly or indi-*
 3 *rectly owning, operating, or controlling, or having a*
 4 *cognizable interest in, television stations which have*
 5 *an aggregate national audience reach exceeding 35*
 6 *percent. Within 3 years after such date of enactment,*
 7 *the Commission shall conduct a study on the oper-*
 8 *ation of this paragraph and submit a report to the*
 9 *Congress on the development of competition in the tel-*
 10 *evision marketplace and the need for any revisions to*
 11 *or elimination of this paragraph.*

12 “(2) *MULTIPLE LICENSES IN A MARKET.—*

13 “(A) *IN GENERAL.—The Commission shall*
 14 *prohibit a person or entity from obtaining any*
 15 *license if such license would result in such person*
 16 *or entity directly or indirectly owning, operat-*
 17 *ing, or controlling, or having a cognizable inter-*
 18 *est in, two or more television stations within the*
 19 *same television market.*

20 “(B) *EXCEPTION FOR MULTIPLE UHF STA-*
 21 *TIONS AND FOR UHF-VHF COMBINATIONS.—Not-*
 22 *withstanding subparagraph (A), the Commission*
 23 *shall not prohibit a person or entity from di-*
 24 *rectly or indirectly owning, operating, or con-*
 25 *trolling, or having a cognizable interest in, two*

1 *television stations within the same television*
2 *market if at least one of such stations is a UHF*
3 *television, unless the Commission determines that*
4 *permitting such ownership, operation, or control*
5 *will harm competition or will harm the preser-*
6 *vation of a diversity of media voices in the local*
7 *television market.*

8 *“(C) EXCEPTION FOR VHF-VHF COMBINA-*
9 *TIONS.—Notwithstanding subparagraph (A), the*
10 *Commission may permit a person or entity to*
11 *directly or indirectly own, operate, or control, or*
12 *have a cognizable interest in, two VHF television*
13 *stations within the same television market, if the*
14 *Commission determines that permitting such*
15 *ownership, operation, or control will not harm*
16 *competition and will not harm the preservation*
17 *of a diversity of media voices in the local tele-*
18 *vision market.*

19 *“(c) LOCAL CROSS-MEDIA OWNERSHIP LIMITS.—In a*
20 *proceeding to grant, renew, or authorize the assignment of*
21 *any station license under this title, the Commission may*
22 *deny the application if the Commission determines that the*
23 *combination of such station and more than one other*
24 *nonbroadcast media of mass communication would result*
25 *in an undue concentration of media voices in the respective*

1 *local market. In considering any such combination, the*
2 *Commission shall not grant the application if all the media*
3 *of mass communication in such local market would be*
4 *owned, operated, or controlled by two or fewer persons or*
5 *entities. This subsection shall not constitute authority for*
6 *the Commission to prescribe regulations containing local*
7 *cross-media ownership limitations. The Commission may*
8 *not, under the authority of this subsection, require any per-*
9 *son or entity to divest itself of any portion of any combina-*
10 *tion of stations and other media of mass communications*
11 *that such person or entity owns, operates, or controls on*
12 *the date of enactment of this section unless such person or*
13 *entity acquires another station or other media of mass com-*
14 *munications after such date in such local market.*

15 “(d) *TRANSITION PROVISIONS.—Any provision of any*
16 *regulation prescribed before the date of enactment of this*
17 *section that is inconsistent with the requirements of this*
18 *section shall cease to be effective on such date of enactment.*
19 *The Commission shall complete all actions (including any*
20 *reconsideration) necessary to amend its regulations to con-*
21 *form to the requirements of this section not later than 6*
22 *months after such date of enactment. Nothing in this section*
23 *shall be construed to prohibit the continuation or renewal*
24 *of any television local marketing agreement that is in effect*

1 *on such date of enactment and that is in compliance with*
 2 *Commission regulations on such date.”.*

3 **SEC. 303. FOREIGN INVESTMENT AND OWNERSHIP.**

4 (a) *STATION LICENSES.*—Section 310(a) (47 U.S.C.
 5 310(a)) *is amended to read as follows:*

6 “(a) *GRANT TO OR HOLDING BY FOREIGN GOVERN-*
 7 *MENT OR REPRESENTATIVE.*—No station license required
 8 *under title III of this Act shall be granted to or held by*
 9 *any foreign government or any representative thereof. This*
 10 *subsection shall not apply to licenses issued under such*
 11 *terms and conditions as the Commission may prescribe to*
 12 *mobile earth stations engaged in occasional or short-term*
 13 *transmissions via satellite of audio or television program*
 14 *material and auxilliary signals if such transmissions are*
 15 *not intended for direct reception by the general public in*
 16 *the United States.”.*

17 (b) *TERMINATION OF FOREIGN OWNERSHIP RESTRIC-*
 18 *TIONS.*—Section 310 (47 U.S.C. 310) *is amended by adding*
 19 *at the end thereof the following new subsection:*

20 “(f) *TERMINATION OF FOREIGN OWNERSHIP RESTRIC-*
 21 *TIONS.*—

22 “(1) *RESTRICTION NOT TO APPLY.*—Subsection
 23 (b) *shall not apply to any common carrier license*
 24 *granted, held, or for which application is made, after*
 25 *the date of enactment of this subsection with respect*

1 *to any alien (or representative thereof), corporation,*
 2 *or foreign government (or representative thereof) if—*

3 *“(A) the President determines—*

4 *“(i) that the foreign country of which*
 5 *such alien is a citizen, in which such cor-*
 6 *poration is organized, or in which the for-*
 7 *ign government is in control is party to an*
 8 *international agreement which requires the*
 9 *United States to provide national or most-*
 10 *favored-nation treatment in the grant of*
 11 *common carrier licenses; and*

12 *“(ii) that not applying subsection (b)*
 13 *would be consistent with national security*
 14 *and effective law enforcement; or*

15 *“(B) the Commission determines that not*
 16 *applying subsection (b) would serve the public*
 17 *interest.*

18 *“(2) COMMISSION CONSIDERATIONS.—In making*
 19 *its determination under paragraph (1), the Commis-*
 20 *sion shall abide by any decision of the President*
 21 *whether application of section (b) is in the public in-*
 22 *terest due to national security, law enforcement, for-*
 23 *ign policy or trade (including direct investment as*
 24 *it relates to international trade policy) concerns, or*
 25 *due to the interpretation of international agreements.*

1 *In the absence of a decision by the President, the*
2 *Commission may consider, among other public inter-*
3 *est factors, whether effective competitive opportunities*
4 *are available to United States nationals or corpora-*
5 *tions in the applicant's home market. Upon receipt of*
6 *an application that requires a determination under*
7 *this paragraph, the Commission shall cause notice of*
8 *the application to be given to the President or any*
9 *agencies designated by the President to receive such*
10 *notification. The Commission shall not make a deter-*
11 *mination under paragraph (1)(B) earlier than 30*
12 *days after the end of the pleading cycle or later than*
13 *180 days after the end of the pleading cycle.*

14 “(3) *FURTHER COMMISSION REVIEW.*—*The Com-*
15 *mission may determine that, due to changed cir-*
16 *cumstances relating to United States national secu-*
17 *rity or law enforcement, a prior determination under*
18 *paragraph (1) ought to be reversed or altered. In*
19 *making this determination, the Commission shall ac-*
20 *cord great deference to any recommendation of the*
21 *President with respect to United States national secu-*
22 *rity or law enforcement. If a determination under*
23 *this paragraph is made then—*

24 “(A) *subsection (b) shall apply with respect*
25 *to such aliens, corporation, and government (or*

1 *their representatives) on the date that the Com-*
 2 *mission publishes notice of its determination*
 3 *under this paragraph; and*

4 *“(B) any license held, or application filed,*
 5 *which could not be held or granted under sub-*
 6 *section (b) shall be reviewed by the Commission*
 7 *under the provisions of paragraphs (1)(B) and*
 8 *(2).*

9 *“(4) NOTIFICATION TO CONGRESS.—The Presi-*
 10 *dent and the Commission shall notify the appropriate*
 11 *committees of the Congress of any determinations*
 12 *made under paragraph (1), (2), or (3).*

13 *“(5) MISCELLANEOUS.—Any Presidential deci-*
 14 *sions made under the provisions of this subsection*
 15 *shall not be subject to judicial review.”.*

16 *(c) EFFECTIVE DATES.—The amendments made by*
 17 *this section shall not apply to any proceeding commenced*
 18 *before the date of enactment of this Act.*

19 **SEC. 304. FAMILY VIEWING EMPOWERMENT.**

20 *(a) FINDINGS.—The Congress makes the following*
 21 *findings:*

22 *(1) Television is pervasive in daily life and ex-*
 23 *erts a powerful influence over the perceptions of view-*
 24 *ers, especially children, concerning the society in*
 25 *which we live.*

1 (2) Children completing elementary school have
2 been exposed to 25 or more hours of television per
3 week and as many as 11 hours per day.

4 (3) Children completing elementary school have
5 been exposed to an estimated average of 8,000 mur-
6 ders and 100,000 acts of violence on television.

7 (4) Studies indicate that the exposure of young
8 children to such levels of violent programming cor-
9 relates to an increased tendency toward and tolerance
10 of violent and aggressive behavior in later years.

11 (5) Studies also suggest that the depiction of
12 other material such as sexual conduct in a cavalier
13 and amoral context may undermine the ability of
14 parents to instill in their children responsible atti-
15 tudes regarding such activities.

16 (6) Studies also suggest that a significant rela-
17 tionship exists between exposure to television violence
18 and antisocial acts, including serious, violent crimi-
19 nal offenses.

20 (7) Parents and other viewers are increasingly
21 demanding that they be empowered to make and im-
22 plement viewing choices for themselves and their fam-
23 ilies.

1 (8) *The public is becoming increasingly aware of*
2 *and concerned about objectionable video programming*
3 *content.*

4 (9) *The broadcast television industry and other*
5 *video programmers have a responsibility to assess the*
6 *impact of their work and to understand the damage*
7 *that comes from the incessant, repetitive, mindless vi-*
8 *olence and irresponsible content.*

9 (10) *The broadcast television industry and other*
10 *video programming distributors should be committed*
11 *to facilitating viewers' access to the information and*
12 *capabilities required to prevent the exposure of their*
13 *children to excessively violent and otherwise objection-*
14 *able and harmful video programming.*

15 (11) *The technology for implementing individual*
16 *viewing choices is rapidly advancing and numerous*
17 *options for viewer control are or soon will be avail-*
18 *able in the marketplace at affordable prices.*

19 (12) *There is a compelling national interest in*
20 *ensuring that parents are provided with the informa-*
21 *tion and capabilities required to prevent the exposure*
22 *of their children to excessively violent and otherwise*
23 *objectionable and harmful video programming.*

24 (b) *POLICY.—It is the policy of the United States to—*

1 (1) encourage broadcast television, cable, sat-
2 ellite, syndication, other video programming distribu-
3 tors, and relevant related industries (in consultation
4 with appropriate public interest groups and inter-
5 ested individuals from the private sector) to—

6 (A) establish a technology fund to encourage
7 television and electronics equipment manufactur-
8 ers to facilitate the development of technology
9 which would empower parents to block program-
10 ming they deem inappropriate for their children;

11 (B) report to the viewing public on the sta-
12 tus of the development of affordable, easy to use
13 blocking technology; and

14 (C) establish and promote effective proce-
15 dures, standards, systems, advisories, or other
16 mechanisms for ensuring that users have easy
17 and complete access to the information necessary
18 to effectively utilize blocking technology; and

19 (2) evaluate whether, not later than 1 year after
20 the date of enactment of this Act, industry-wide pro-
21 cedures, standards, systems advisories, or other mech-
22 anisms established by the broadcast television, cable
23 satellite, syndication, other video programming dis-
24 tribution, and relevant related industries—

1 (A) are informing viewers regarding their
2 options to utilize blocking technology; and

3 (B) encouraging the development of blocking
4 technologies.

5 (c) GAO AUDIT.—

6 (1) AUDIT REQUIRED.—No later than 18 months
7 after the date of the enactment of this Act, the Comp-
8 troller General shall submit to Congress an evaluation
9 of—

10 (A) the proliferation of new and existing
11 blocking technology;

12 (B) the accessibility of information to em-
13 power viewing choices; and

14 (C) the consumer satisfaction with informa-
15 tion and technological solutions.

16 (2) CONTENTS OF EVALUATION.—The evaluation
17 shall—

18 (A) describe the blocking technology avail-
19 able to viewers including the costs thereof; and

20 (B) assess the extent of consumer knowledge
21 and attitudes toward available blocking tech-
22 nologies;

23 (3) describe steps taken by broadcast, cable, sat-
24 ellite, syndication, and other video programming dis-
25 tribution services to inform the public and promote

1 *the availability of viewer empowerment technologies,*
2 *devices, and techniques;*

3 (4) *evaluate the degree to which viewer*
4 *empowerment technology is being utilized;*

5 (5) *assess consumer satisfaction with techno-*
6 *logical options; and*

7 (6) *evaluate consumer demand for information*
8 *and technological solutions.*

9 **SEC. 305. PARENTAL CHOICE IN TELEVISION PROGRAM-**
10 **MING.**

11 (a) *FINDINGS.—The Congress makes the following*
12 *findings:*

13 (1) *Television influences children's perception of*
14 *the values and behavior that are common and accept-*
15 *able in society.*

16 (2) *Television station operators, cable television*
17 *system operators, and video programmers should fol-*
18 *low practices in connection with video programming*
19 *that take into consideration that television broadcast*
20 *and cable programming has established a uniquely*
21 *pervasive presence in the lives of American children.*

22 (3) *The average American child is exposed to 25*
23 *hours of television each week and some children are*
24 *exposed to as much as 11 hours of television a day.*

1 (4) *Studies have shown that children exposed to*
2 *violent video programming at a young age have a*
3 *higher tendency for violent and aggressive behavior*
4 *later in life than children not so exposed, and that*
5 *children exposed to violent video programming are*
6 *prone to assume that acts of violence are acceptable*
7 *behavior.*

8 (5) *Children in the United States are, on aver-*
9 *age, exposed to an estimated 8,000 murders and*
10 *100,000 acts of violence on television by the time the*
11 *child completes elementary school.*

12 (6) *Studies indicate that children are affected by*
13 *the pervasiveness and casual treatment of sexual ma-*
14 *terial on television, eroding the ability of parents to*
15 *develop responsible attitudes and behavior in their*
16 *children.*

17 (7) *Parents express grave concern over violent*
18 *and sexual video programming and strongly support*
19 *technology that would give them greater control to*
20 *block video programming in the home that they con-*
21 *sider harmful to their children.*

22 (8) *There is a compelling governmental interest*
23 *in empowering parents to limit the negative influ-*
24 *ences of video programming that is harmful to chil-*
25 *dren.*

1 (9) *Providing parents with timely information*
2 *about the nature of upcoming video programming*
3 *and with the technological tools that allow them eas-*
4 *ily to block violent, sexual, or other programming*
5 *that they believe harmful to their children is the least*
6 *restrictive and most narrowly tailored means of*
7 *achieving that compelling governmental interest.*

8 (b) *ESTABLISHMENT OF TELEVISION RATING CODE.*—
9 *Section 303 of the Act (47 U.S.C. 303) is amended by add-*
10 *ing at the end the following:*

11 “(v) *Prescribe—*

12 “(1) *on the basis of recommendations from an*
13 *advisory committee established by the Commission*
14 *that is composed of parents, television broadcasters,*
15 *television programming producers, cable operators,*
16 *appropriate public interest groups, and other inter-*
17 *ested individuals from the private sector and that is*
18 *fairly balanced in terms of political affiliation, the*
19 *points of view represented, and the functions to be*
20 *performed by the committee, guidelines and rec-*
21 *ommended procedures for the identification and rat-*
22 *ing of video programming that contains sexual, vio-*
23 *lent, or other indecent material about which parents*
24 *should be informed before it is displayed to children,*
25 *provided that nothing in this paragraph shall be con-*

1 *strued to authorize any rating of video programming*
 2 *on the basis of its political or religious content; and*
 3 *“(2) with respect to any video programming that*
 4 *has been rated (whether or not in accordance with the*
 5 *guidelines and recommendations prescribed under*
 6 *paragraph (1)), rules requiring distributors of such*
 7 *video programming to transmit such rating to permit*
 8 *parents to block the display of video programming*
 9 *that they have determined is inappropriate for their*
 10 *children.”.*

11 *(c) REQUIREMENT FOR MANUFACTURE OF TELE-*
 12 *VISIONS THAT BLOCK PROGRAMS.—Section 303 of the Act,*
 13 *as amended by subsection (a), is further amended by adding*
 14 *at the end the following:*

15 *“(w) Require, in the case of apparatus designed to re-*
 16 *ceive television signals that are manufactured in the United*
 17 *States or imported for use in the United States and that*
 18 *have a picture screen 13 inches or greater in size (measured*
 19 *diagonally), that such apparatus be equipped with circuitry*
 20 *designed to enable viewers to block display of all programs*
 21 *with a common rating, except as otherwise permitted by*
 22 *regulations pursuant to section 330(c)(4).”.*

23 *(d) SHIPPING OR IMPORTING OF TELEVISIONS THAT*
 24 *BLOCK PROGRAMS.—*

1 (1) *REGULATIONS.*—Section 330 of the Commu-
2 nications Act of 1934 (47 U.S.C. 330) is amended—

3 (A) by redesignating subsection (c) as sub-
4 section (d); and

5 (B) by adding after subsection (b) the fol-
6 lowing new subsection (c):

7 “(c)(1) Except as provided in paragraph (2), no per-
8 son shall ship in interstate commerce, manufacture, assem-
9 ble, or import from any foreign country into the United
10 States any apparatus described in section 303(w) of this
11 Act except in accordance with rules prescribed by the Com-
12 mission pursuant to the authority granted by that section.

13 “(2) This subsection shall not apply to carriers trans-
14 porting apparatus referred to in paragraph (1) without
15 trading it.

16 “(3) The rules prescribed by the Commission under
17 this subsection shall provide for the oversight by the Com-
18 mission of the adoption of standards by industry for block-
19 ing technology. Such rules shall require that all such appa-
20 ratus be able to receive the rating signals which have been
21 transmitted by way of line 21 of the vertical blanking inter-
22 val and which conform to the signal and blocking specifica-
23 tions established by industry under the supervision of the
24 Commission.

1 “(4) As new video technology is developed, the Commis-
 2 sion shall take such action as the Commission determines
 3 appropriate to ensure that blocking service continues to be
 4 available to consumers. If the Commission determines that
 5 an alternative blocking technology exists that—

6 “(A) enables parents to block programming based
 7 on identifying programs without ratings,

8 “(B) is available to consumers at a cost which
 9 is comparable to the cost of technology that allows
 10 parents to block programming based on common rat-
 11 ings, and

12 “(C) will allow parents to block a broad range
 13 of programs on a multichannel system as effectively
 14 and as easily as technology that allows parents to
 15 block programming based on common ratings,

16 the Commission shall amend the rules prescribed pursuant
 17 to section 303(w) to require that the apparatus described
 18 in such section be equipped with either the blocking tech-
 19 nology described in such section or the alternative blocking
 20 technology described in this paragraph.”.

21 (2) CONFORMING AMENDMENT.—Section 330(d)
 22 of such Act, as redesignated by subsection (a)(1), is
 23 amended by striking “section 303(s), and section
 24 303(u)” and inserting in lieu thereof “and sections
 25 303(s), 303(u), and 303(w)”.

1 (e) *APPLICABILITY AND EFFECTIVE DATES.*—

2 (1) *APPLICABILITY OF RATING PROVISION.*—The
3 amendment made by subsection (b) of this section
4 shall take effect 1 year after the date of enactment of
5 this Act, but only if the Commission determines, in
6 consultation with appropriate public interest groups
7 and interested individuals from the private sector,
8 that distributors of video programming have not, by
9 such date—

10 (A) established voluntary rules for rating
11 video programming that contains sexual, violent,
12 or other indecent material about which parents
13 should be informed before it is displayed to chil-
14 dren, and such rules are acceptable to the Com-
15 mission; and

16 (B) agreed voluntarily to broadcast signals
17 that contain ratings of such programming.

18 (2) *EFFECTIVE DATE OF MANUFACTURING PROVI-*
19 *SION.*—In prescribing regulations to implement the
20 amendment made by subsection (c), the Federal Com-
21 munications Commission shall, after consultation
22 with the television manufacturing industry, specify
23 the effective date for the applicability of the require-
24 ment to the apparatus covered by such amendment,

1 *which date shall not be less than one year after the*
2 *date of the enactment of this Act.*

3 **SEC. 306. TERM OF LICENSES.**

4 *Section 307(c) of the Act (47 U.S.C. 307(c)) is amend-*
5 *ed to read as follows:*

6 “(c) *TERMS OF LICENSES.*—

7 “(1) *INITIAL AND RENEWAL LICENSES.*—*Each li-*
8 *cence granted for the operation of a broadcasting sta-*
9 *tion shall be for a term of not to exceed seven years.*
10 *Upon application therefor, a renewal of such license*
11 *may be granted from time to time for a term of not*
12 *to exceed seven years from the date of expiration of*
13 *the preceding license, if the Commission finds that*
14 *public interest, convenience, and necessity would be*
15 *served thereby. Consistent with the foregoing provi-*
16 *sions of this subsection, the Commission may by rule*
17 *prescribe the period or periods for which licenses shall*
18 *be granted and renewed for particular classes of sta-*
19 *tions, but the Commission may not adopt or follow*
20 *any rule which would preclude it, in any case involv-*
21 *ing a station of a particular class, from granting or*
22 *renewing a license for a shorter period than that pre-*
23 *scribed for stations of such class if, in its judgment,*
24 *public interest, convenience, or necessity would be*
25 *served by such action.*

1 “(2) *MATERIALS IN APPLICATION.*—In order to
 2 expedite action on applications for renewal of broad-
 3 casting station licenses and in order to avoid needless
 4 expense to applicants for such renewals, the Commis-
 5 sion shall not require any such applicant to file any
 6 information which previously has been furnished to
 7 the Commission or which is not directly material to
 8 the considerations that affect the granting or denial
 9 of such application, but the Commission may require
 10 any new or additional facts it deems necessary to
 11 make its findings.

12 “(3) *CONTINUATION PENDING DECISION.*—Pend-
 13 ing any hearing and final decision on such an appli-
 14 cation and the disposition of any petition for rehear-
 15 ing pursuant to section 405, the Commission shall
 16 continue such license in effect.”.

17 **SEC. 307. BROADCAST LICENSE RENEWAL PROCEDURES.**

18 (a) *AMENDMENT.*—Section 309 of the Act (47 U.S.C.
 19 309) is amended by adding at the end thereof the following
 20 new subsection:

21 “(k) *BROADCAST STATION RENEWAL PROCEDURES.*—

22 “(1) *STANDARDS FOR RENEWAL.*—If the licensee
 23 of a broadcast station submits an application to the
 24 Commission for renewal of such license, the Commis-
 25 sion shall grant the application if it finds, with re-

1 *spect to that station, during the preceding term of its*
 2 *license—*

3 “(A) *the station has served the public inter-*
 4 *est, convenience, and necessity;*

5 “(B) *there have been no serious violations*
 6 *by the licensee of this Act or the rules and regu-*
 7 *lations of the Commission; and*

8 “(C) *there have been no other violations by*
 9 *the licensee of this Act or the rules and regula-*
 10 *tions of the Commission which, taken together,*
 11 *would constitute a pattern of abuse.*

12 “(2) *CONSEQUENCE OF FAILURE TO MEET*
 13 *STANDARD.—If any licensee of a broadcast station*
 14 *fails to meet the requirements of this subsection, the*
 15 *Commission may deny the application for renewal in*
 16 *accordance with paragraph (3), or grant such appli-*
 17 *cation on terms and conditions as are appropriate,*
 18 *including renewal for a term less than the maximum*
 19 *otherwise permitted.*

20 “(3) *STANDARDS FOR DENIAL.—If the Commis-*
 21 *sion determines, after notice and opportunity for a*
 22 *hearing as provided in subsection (e), that a licensee*
 23 *has failed to meet the requirements specified in para-*
 24 *graph (1) and that no mitigating factors justify the*
 25 *imposition of lesser sanctions, the Commission shall—*

1 “(A) *issue an order denying the renewal ap-*
 2 *plication filed by such licensee under section 308;*
 3 *and*

4 “(B) *only thereafter accept and consider*
 5 *such applications for a construction permit as*
 6 *may be filed under section 308 specifying the*
 7 *channel or broadcasting facilities of the former*
 8 *licensee.*

9 “(4) *COMPETITOR CONSIDERATION PROHIB-*
 10 *ITED.—In making the determinations specified in*
 11 *paragraph (1) or (2), the Commission shall not con-*
 12 *sider whether the public interest, convenience, and ne-*
 13 *cessity might be served by the grant of a license to a*
 14 *person other than the renewal applicant.”.*

15 (b) *CONFORMING AMENDMENT.—Section 309(d) of the*
 16 *Act (47 U.S.C. 309(d)) is amended by inserting after “with*
 17 *subsection (a)” each place such term appears the following:*
 18 *“(or subsection (k) in the case of renewal of any broadcast*
 19 *station license)”.*

20 (c) *EFFECTIVE DATE.—The amendments made by this*
 21 *section shall apply to any application for renewal pending*
 22 *or filed on or after the date of enactment of this Act.*

1 **SEC. 308. EXCLUSIVE FEDERAL JURISDICTION OVER DI-**
 2 **RECT BROADCAST SATELLITE SERVICE.**

3 *Section 303 of the Act (47 U.S.C. 303) is amended by*
 4 *adding at the end thereof the following new subsection:*

5 *“(v) Have exclusive jurisdiction over the regulation of*
 6 *the direct broadcast satellite service.”.*

7 **SEC. 309. AUTOMATED SHIP DISTRESS AND SAFETY SYS-**
 8 **TEMS.**

9 *Notwithstanding any provision of the Communica-*
 10 *tions Act of 1934 or any other provision of law or regula-*
 11 *tion, a ship documented under the laws of the United States*
 12 *operating in accordance with the Global Maritime Distress*
 13 *and Safety System provisions of the Safety of Life at Sea*
 14 *Convention shall not be required to be equipped with a*
 15 *radio telegraphy station operated by one or more radio offi-*
 16 *cers or operators. This section shall take effect for each vessel*
 17 *upon a determination by the United States Coast Guard*
 18 *that such vessel has the equipment required to implement*
 19 *the Global Maritime Distress and Safety System installed*
 20 *and operating in good working condition.*

21 **SEC. 310. RESTRICTIONS ON OVER-THE-AIR RECEPTION DE-**
 22 **VICES.**

23 *Within 180 days after the enactment of this Act, the*
 24 *Commission shall, pursuant to section 303, promulgate reg-*
 25 *ulations to prohibit restrictions that inhibit a viewer’s abil-*
 26 *ity to receive video programming services through signal*

1 *receiving devices designed for off-the-air reception of tele-*
 2 *vision broadcast signals or direct broadcast satellite serv-*
 3 *ices.*

4 ***SEC. 311. DBS SIGNAL SECURITY.***

5 *Section 705(e)(4) of the Act (47 U.S.C. 605(e)) is*
 6 *amended by inserting after “satellite cable programming”*
 7 *the following: “or programming of a licensee in the direct*
 8 *broadcast satellite service”.*

9 ***SEC. 312. DELEGATION OF EQUIPMENT TESTING AND CER-***
 10 ***TIFICATION TO PRIVATE LABORATORIES.***

11 *Section 302 of the Act (47 U.S.C. 302) is amended by*
 12 *adding at the end the following:*

13 *“(e) USE OF PRIVATE ORGANIZATIONS FOR TESTING*
 14 *AND CERTIFICATION.—The Commission may—*

15 *“(1) authorize the use of private organizations*
 16 *for testing and certifying the compliance of devices or*
 17 *home electronic equipment and systems with regula-*
 18 *tions promulgated under this section;*

19 *“(2) accept as prima facie evidence of such com-*
 20 *pliance the certification by any such organization;*
 21 *and*

22 *“(3) establish such qualifications and standards*
 23 *as it deems appropriate for such private organiza-*
 24 *tions, testing, and certification.”.*

1 ***TITLE IV—EFFECT ON OTHER***
2 ***LAWS***

3 ***SEC. 401. RELATIONSHIP TO OTHER LAWS.***

4 (a) *MODIFICATION OF FINAL JUDGMENT.*—This Act
5 and the amendments made by title I of this Act shall super-
6 sede only the following sections of the Modification of Final
7 Judgment:

8 (1) *Section II(C) of the Modification of Final*
9 *Judgment, relating to deadline for procedures for*
10 *equal access compliance.*

11 (2) *Section II(D) of the Modification of Final*
12 *Judgment, relating to line of business restrictions.*

13 (3) *Section VIII(A) of the Modification of Final*
14 *Judgment, relating to manufacturing restrictions.*

15 (4) *Section VIII(C) of the Modification of Final*
16 *Judgment, relating to standard for entry into the*
17 *interexchange market.*

18 (5) *Section VIII(D) of the Modification of Final*
19 *Judgment, relating to prohibition on entry into elec-*
20 *tronic publishing.*

21 (6) *Section VIII(H) of the Modification of Final*
22 *Judgment, relating to debt ratios at the time of trans-*
23 *fer.*

1 (7) *Section VIII(J) of the Modification of Final*
 2 *Judgment, relating to prohibition on implementation*
 3 *of the plan of reorganization before court approval.*

4 (b) *ANTITRUST LAWS.—Nothing in this Act or in the*
 5 *amendments made by this Act shall be construed to modify,*
 6 *impair, or supersede the applicability of any of the anti-*
 7 *trust laws.*

8 (c) *FEDERAL, STATE, AND LOCAL LAW.—(1) Parts II*
 9 *and III of title II of the Communications Act of 1934 shall*
 10 *not be construed to modify, impair, or supersede Federal,*
 11 *State, or local law unless expressly so provided in such part.*

12 (2) *STATE TAX SAVINGS PROVISION.—Notwithstand-*
 13 *ing paragraph (1), nothing in this Act or the amendments*
 14 *made by this Act shall be construed to modify, impair, or*
 15 *supersede, or authorize the modification, impairment, or*
 16 *supersession of, any State or local law pertaining to tax-*
 17 *ation, except as provided in sections 243(e) and 622 of the*
 18 *Communications Act of 1934 and section 402 of this Act.*

19 (d) *APPLICATION TO OTHER ACTION.—This Act shall*
 20 *supersede the final judgment entered December 21, 1984*
 21 *and as restated January 11, 1985, in the action styled*
 22 *United States v. GTE Corp., Civil Action No. 83–1298, in*
 23 *the United States District Court for the District of Colum-*
 24 *bia, and any judgment or order with respect to such action*
 25 *entered on or after December 21, 1984, and such final judg-*

1 *ment shall not be enforced with respect to conduct occurring*
2 *after the date of the enactment of this Act.*

3 (e) *INAPPLICABILITY OF FINAL JUDGMENT TO WIRE-*
4 *LESS SUCCESSORS.*—*No person shall be considered to be an*
5 *affiliate, a successor, or an assign of a Bell operating com-*
6 *pany under section III of the Modification of Final Judg-*
7 *ment by reason of having acquired wireless exchange assets*
8 *or operations previously owned by a Bell operating com-*
9 *pany or an affiliate of a Bell operating company.*

10 (f) *ANTITRUST LAWS.*—*As used in this section, the*
11 *term “antitrust laws” has the meaning given it in sub-*
12 *section (a) of the first section of the Clayton Act (15 U.S.C.*
13 *12(a)), except that such term includes the Act of June 19,*
14 *1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly*
15 *known as the Robinson Patman Act, and section 5 of the*
16 *Federal Trade Commission Act (15 U.S.C. 45) to the extent*
17 *that such section 5 applies to unfair methods of competi-*
18 *tion.*

19 (g) *ADDITIONAL DEFINITIONS.*—*As used in this sec-*
20 *tion, the terms “Modification of Final Judgment” and “Bell*
21 *operating company” have the same meanings provided such*
22 *terms in section 3 of the Communications Act of 1934.*

1 **SEC. 402. PREEMPTION OF LOCAL TAXATION WITH RESPECT**
 2 **TO DBS SERVICE.**

3 (a) *PREEMPTION.*—A provider of direct-to-home sat-
 4 ellite service shall be exempt from the collection or remit-
 5 tance, or both, of any tax or fee imposed by any local taxing
 6 jurisdiction with respect to the provision of direct-to-home
 7 satellite service. Nothing in this section shall be construed
 8 to exempt from collection or remittance any tax or fee on
 9 the sale of equipment.

10 (b) *DEFINITIONS.*—For the purposes of this section—

11 (1) *DIRECT-TO-HOME SATELLITE SERVICE.*—The
 12 term “direct-to-home satellite service” means the
 13 transmission or broadcasting by satellite of program-
 14 ming directly to the subscribers’ premises without the
 15 use of ground receiving or distribution equipment, ex-
 16 cept at the subscribers’ premises or in the uplink
 17 process to the satellite.

18 (2) *PROVIDER OF DIRECT-TO-HOME SATELLITE*
 19 *SERVICE.*—For purposes of this section, a “provider of
 20 direct-to-home satellite service” means a person who
 21 transmits, broadcasts, sells, or distributes direct-to-
 22 home satellite service.

23 (3) *LOCAL TAXING JURISDICTION.*—The term
 24 “local taxing jurisdiction” means any municipality,
 25 city, county, township, parish, transportation dis-
 26 trict, or assessment jurisdiction, or any other local ju-

1 *risdiction in the territorial jurisdiction of the United*
 2 *States with the authority to impose a tax or fee, but*
 3 *does not include a State.*

4 (4) *STATE.*—*The term “State” means any of the*
 5 *several States, the District of Columbia, or any terri-*
 6 *tory or possession of the United States.*

7 (5) *TAX OR FEE.*—*The terms “tax” and “fee”*
 8 *mean any local sales tax, local use tax, local intangi-*
 9 *ble tax, local income tax, business license tax, utility*
 10 *tax, privilege tax, gross receipts tax, excise tax, fran-*
 11 *chise fees, local telecommunications tax, or any other*
 12 *tax, license, or fee that is imposed for the privilege of*
 13 *doing business, regulating, or raising revenue for a*
 14 *local taxing jurisdiction.*

15 (c) *PRESERVATION OF STATE AUTHORITY.*—*This sec-*
 16 *tion shall not be construed to prevent taxation of a provider*
 17 *of direct-to-home satellite service by a State or to prevent*
 18 *a local taxing jurisdiction from receiving revenue derived*
 19 *from a tax or fee imposed and collected by a State.*

20 **SEC. 403. PROTECTION OF MINORS AND CLARIFICATION OF**
 21 **CURRENT LAWS REGARDING COMMUNICA-**
 22 **TION OF OBSCENE AND INDECENT MATE-**
 23 **RIALS THROUGH THE USE OF COMPUTERS.**

24 (a) *PROTECTION OF MINORS.*—

1 (1) *GENERALLY.*—Section 1465 of title 18, United
 2 States Code, is amended by adding at the end the
 3 following:

4 “Whoever intentionally communicates by computer, in
 5 or affecting interstate or foreign commerce, to any person
 6 the communicator believes has not attained the age of 18
 7 years, any material that, in context, depicts or describes,
 8 in terms patently offensive as measured by contemporary
 9 community standards, sexual or excretory activities or or-
 10 gans, or attempts to do so, shall be fined under this title
 11 or imprisoned not more than five years, or both.”.

12 (2) *CONFORMING AMENDMENTS RELATING TO*
 13 *FORFEITURE.*—

14 (A) Section 1467(a)(1) of title 18, United
 15 States Code, is amended by inserting “commu-
 16 nicated,” after “transported,”.

17 (B) Section 1467 of title 18, United States
 18 Code, is amended in subsection (a)(1), by strik-
 19 ing “obscene”.

20 (C) Section 1469 of title 18, United States
 21 Code, is amended by inserting “communicated,”
 22 after “transported,” each place it appears.

23 (b) *CLARIFICATION OF CURRENT LAWS REGARDING*
 24 *COMMUNICATION OF OBSCENE MATERIALS THROUGH THE*
 25 *USE OF COMPUTERS.*—

1 (1) *IMPORTATION OR TRANSPORTATION.*—Section
2 1462 of title 18, United States Code, is amended—

3 (A) in the first undesignated paragraph, by
4 inserting “(including by computer) after “there-
5 of”; and

6 (B) in the second undesignated para-
7 graph—

8 (i) by inserting “or receives,” after
9 “takes”;

10 (ii) by inserting “, or by computer,”
11 after “common carrier”; and

12 (iii) by inserting “or importation”
13 after “carriage”.

14 (2) *TRANSPORTATION FOR PURPOSES OF SALE*
15 *OR DISTRIBUTION.*—The first undesignated paragraph
16 of section 1465 of title 18, United States Code, is
17 amended—

18 (A) by striking “transports in” and insert-
19 ing “transports or travels in, or uses a facility
20 or means of,”;

21 (B) by inserting “(including a computer in
22 or affecting such commerce)” after “foreign com-
23 merce” the first place it appears; and

24 (C) by striking “, or knowingly travels in”
25 and all that follows through “obscene material in

1 *interstate or foreign commerce,” and inserting*
 2 *“of”.*

3 ***TITLE V—DEFINITIONS***

4 ***SEC. 501. DEFINITIONS.***

5 *(a) ADDITIONAL DEFINITIONS.—Section 3 of the Act*
 6 *(47 U.S.C. 153) is amended—*

7 *(1) in subsection (r)—*

8 *(A) by inserting “(A)” after “means”; and*

9 *(B) by inserting before the period at the end*
 10 *the following: “, or (B) service provided through*
 11 *a system of switches, transmission equipment, or*
 12 *other facilities (or combination thereof) by which*
 13 *a subscriber can originate and terminate a tele-*
 14 *communications service within a State but*
 15 *which does not result in the subscriber incurring*
 16 *a telephone toll charge”; and*

17 *(2) by adding at the end thereof the following:*

18 *“(35) AFFILIATE.—The term ‘affiliate’, when*
 19 *used in relation to any person or entity, means an-*
 20 *other person or entity who owns or controls, is owned*
 21 *or controlled by, or is under common ownership or*
 22 *control with, such person or entity.*

23 *“(36) BELL OPERATING COMPANY.—The term*
 24 *‘Bell operating company’ means—*

1 “(A) *Bell Telephone Company of Nevada,*
2 *Illinois Bell Telephone Company, Indiana Bell*
3 *Telephone Company, Incorporated, Michigan*
4 *Bell Telephone Company, New England Tele-*
5 *phone and Telegraph Company, New Jersey Bell*
6 *Telephone Company, New York Telephone Com-*
7 *pany, U S West Communications Company,*
8 *South Central Bell Telephone Company, South-*
9 *ern Bell Telephone and Telegraph Company,*
10 *Southwestern Bell Telephone Company, The Bell*
11 *Telephone Company of Pennsylvania, The Chesa-*
12 *peake and Potomac Telephone Company, The*
13 *Chesapeake and Potomac Telephone Company of*
14 *Maryland, The Chesapeake and Potomac Tele-*
15 *phone Company of Virginia, The Chesapeake*
16 *and Potomac Telephone Company of West Vir-*
17 *ginia, The Diamond State Telephone Company,*
18 *The Ohio Bell Telephone Company, The Pacific*
19 *Telephone and Telegraph Company, or Wiscon-*
20 *sin Telephone Company;*

21 “(B) *any successor or assign of any such*
22 *company that provides telephone exchange serv-*
23 *ice.*

1 “(37) *CABLE SYSTEM*.—The term ‘cable system’
2 has the meaning given such term in section 602(7) of
3 this Act.

4 “(38) *CUSTOMER PREMISES EQUIPMENT*.—The
5 term ‘customer premises equipment’ means equipment
6 employed on the premises of a person (other than a
7 carrier) to originate, route, or terminate tele-
8 communications.

9 “(39) *DIALING PARITY*.—The term ‘dialing par-
10 ity’ means that a person that is not an affiliated en-
11 terprise of a local exchange carrier is able to provide
12 telecommunications services in such a manner that
13 customers have the ability to route automatically,
14 without the use of any access code, their telecommuni-
15 cations to the telecommunications services provider of
16 the customer’s designation from among 2 or more tele-
17 communications services providers (including such
18 local exchange carrier).

19 “(40) *EXCHANGE ACCESS*.—The term ‘exchange
20 access’ means the offering of telephone exchange serv-
21 ices or facilities for the purpose of the origination or
22 termination of interLATA services.

23 “(41) *INFORMATION SERVICE*.—The term ‘infor-
24 mation service’ means the offering of a capability for
25 generating, acquiring, storing, transforming, process-

1 *ing, retrieving, utilizing, or making available infor-*
 2 *mation via telecommunications, and includes elec-*
 3 *tronic publishing, but does not include any use of any*
 4 *such capability for the management, control, or oper-*
 5 *ation of a telecommunications system or the manage-*
 6 *ment of a telecommunications service. For purposes of*
 7 *section 242, such term shall not include the provision*
 8 *of video programming directly to subscribers.*

9 “(42) *INTERLATA SERVICE.—The term*
 10 *‘interLATA service’ means telecommunications be-*
 11 *tween a point located in a local access and transport*
 12 *area and a point located outside such area.*

13 “(43) *LOCAL ACCESS AND TRANSPORT AREA.—*
 14 *The term ‘local access and transport area’ or ‘LATA’*
 15 *means a contiguous geographic area—*

16 “(A) *established by a Bell operating com-*
 17 *pany such that no exchange area includes points*
 18 *within more than 1 metropolitan statistical*
 19 *area, consolidated metropolitan statistical area,*
 20 *or State, except as expressly permitted under the*
 21 *Modification of Final Judgment before the date*
 22 *of the enactment of this paragraph; or*

23 “(B) *established or modified by a Bell oper-*
 24 *ating company after the date of enactment of*

1 *this paragraph and approved by the Commis-*
2 *sion.*

3 “(44) *LOCAL EXCHANGE CARRIER.*—The term
4 ‘local exchange carrier’ means any person that is en-
5 gaged in the provision of telephone exchange service or
6 exchange access. Such term does not include a person
7 insofar as such person is engaged in the provision of
8 a commercial mobile service under section 332(c), ex-
9 cept to the extent that the Commission finds that such
10 service as provided by such person in a State is a re-
11 placement for a substantial portion of the wireline
12 telephone exchange service within such State.

13 “(45) *MODIFICATION OF FINAL JUDGMENT.*—The
14 term ‘Modification of Final Judgment’ means the
15 order entered August 24, 1982, in the antitrust action
16 styled *United States v. Western Electric*, Civil Action
17 No. 82–0192, in the United States District Court for
18 the District of Columbia, and includes any judgment
19 or order with respect to such action entered on or
20 after August 24, 1982.

21 “(46) *NUMBER PORTABILITY.*—The term ‘number
22 portability’ means the ability of users of telecommuni-
23 cations services to retain existing telecommunications
24 numbers without impairment of quality, reliability,
25 or convenience when changing from one provider of

1 *telecommunications services to another, as long as*
 2 *such user continues to be located within the area*
 3 *served by the same central office of the carrier from*
 4 *which the user is changing.*

5 “(47) *RURAL TELEPHONE COMPANY.*—*The term*
 6 *‘rural telephone company’ means a local exchange*
 7 *carrier operating entity to the extent that such en-*
 8 *tity—*

9 “(A) *provides common carrier service to*
 10 *any local exchange carrier study area that does*
 11 *not include either—*

12 “(i) *any incorporated place of 10,000*
 13 *inhabitants or more, or any part thereof,*
 14 *based on the most recent available popu-*
 15 *lation statistics of the Bureau of the Census;*
 16 *or*

17 “(ii) *any territory, incorporated or un-*
 18 *incorporated, included in an urbanized*
 19 *area, as defined by the Bureau of the Cen-*
 20 *sus as of August 10, 1993;*

21 “(B) *provides telephone exchange service,*
 22 *including telephone exchange access service, to*
 23 *fewer than 50,000 access lines;*

1 “(C) provides telephone exchange service to
 2 any local exchange carrier study area with fewer
 3 than 100,000 access lines; or

4 “(D) has less than 15 percent of its access
 5 lines in communities of more than 50,000 on the
 6 date of enactment of this paragraph.

7 “(48) TELECOMMUNICATIONS.—The term ‘tele-
 8 communications’ means the transmission, between or
 9 among points specified by the subscriber, of informa-
 10 tion of the subscriber’s choosing, without change in
 11 the form or content of the information as sent and re-
 12 ceived, by means of an electromagnetic transmission
 13 medium, including all instrumentalities, facilities,
 14 apparatus, and services (including the collection, stor-
 15 age, forwarding, switching, and delivery of such in-
 16 formation) essential to such transmission.

17 “(49) TELECOMMUNICATIONS EQUIPMENT.—The
 18 term ‘telecommunications equipment’ means equip-
 19 ment, other than customer premises equipment, used
 20 by a carrier to provide telecommunications services,
 21 and includes software integral to such equipment (in-
 22 cluding upgrades).

23 “(50) TELECOMMUNICATIONS SERVICE.—The
 24 term ‘telecommunications service’ means the offering,
 25 on a common carrier basis, of telecommunications fa-

1 *cilities, or of telecommunications by means of such fa-*
 2 *cilities. Such term does not include an information*
 3 *service.”.*

4 *(b) STYLISTIC CONSISTENCY.—Section 3 of the Act (47*
 5 *U.S.C. 153) is amended—*

6 *(1) in subsections (e) and (n), by redesignating*
 7 *clauses (1), (2) and (3), as clauses (A), (B), and (C),*
 8 *respectively;*

9 *(2) in subsection (w), by redesignating para-*
 10 *graphs (1) through (5) as subparagraphs (A) through*
 11 *(E), respectively;*

12 *(3) in subsections (y) and (z), by redesignating*
 13 *paragraphs (1) and (2) as subparagraphs (A) and*
 14 *(B), respectively;*

15 *(4) by redesignating subsections (a) through (ff)*
 16 *as paragraphs (1) through (32);*

17 *(5) by indenting such paragraphs 2 em spaces;*

18 *(6) by inserting after the designation of each*
 19 *such paragraph—*

20 *(A) a heading, in a form consistent with the*
 21 *form of the heading of this subsection, consisting*
 22 *of the term defined by such paragraph, or the*
 23 *first term so defined if such paragraph defines*
 24 *more than one term; and*

25 *(B) the words “The term”;*

1 (7) by changing the first letter of each defined
 2 term in such paragraphs from a capital to a lower
 3 case letter (except for “United States”, “State”,
 4 “State commission”, and “Great Lakes Agreement”);
 5 and

6 (8) by reordering such paragraphs and the addi-
 7 tional paragraphs added by subsection (a) in alpha-
 8 betical order based on the headings of such para-
 9 graphs and renumbering such paragraphs as so reor-
 10 dered.

11 (c) *CONFORMING AMENDMENTS.*—The Act is amend-
 12 ed—

13 (1) in section 225(a)(1), by striking “section
 14 3(h)” and inserting “section 3”;

15 (2) in section 332(d), by striking “section 3(n)”
 16 each place it appears and inserting “section 3”; and

17 (3) in sections 621(d)(3), 636(d), and 637(a)(2),
 18 by striking “section 3(v)” and inserting “section 3”.

19 **TITLE VI—SMALL BUSINESS** 20 **COMPLAINT PROCEDURE**

21 **SEC. 601. COMPLAINT PROCEDURE.**

22 (a) *PROCEDURE REQUIRED.*—The Federal Commu-
 23 nications Commission shall establish procedures for the re-
 24 ceipt and review of complaints concerning violations of the
 25 Communications Act of 1934, and the rules and regulations

1 *thereunder, that are likely to result, or have resulted, as a*
 2 *result of the violation, in material financial harm to a pro-*
 3 *vider of telemessaging service, or other small business en-*
 4 *gaged in providing an information service or other tele-*
 5 *communications service. Such procedures shall be estab-*
 6 *lished within 120 days after the date of enactment of this*
 7 *Act.*

8 *(b) DEADLINES FOR PROCEDURES; SANCTIONS.—The*
 9 *procedures under this section shall ensure that the Commis-*
 10 *sion will make a final determination with respect to any*
 11 *such complaint within 120 days after receipt of the com-*
 12 *plaint. If the complaint contains an appropriate showing*
 13 *that the alleged violation occurred, as determined by the*
 14 *Commission in accordance with such regulations, the Com-*
 15 *mission shall, within 60 days after receipt of the complaint,*
 16 *order the common carrier and its affiliates to cease engag-*
 17 *ing in such violation pending such final determination. In*
 18 *addition, the Commission may exercise its authority to im-*
 19 *pose other penalties or sanctions, to the extent otherwise*
 20 *provided by law.*

21 *(c) DEFINITION.—For purposes of this section, a small*
 22 *business shall be any business entity that, along with any*
 23 *affiliate or subsidiary, has fewer than 300 employees.*

Amend the title so as to read: “An Act to promote competition and reduce regulation in order to secure lower prices

and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”.

Attest:

Clerk.

104TH CONGRESS
1ST SESSION

S. 652

AMENDMENTS